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COUNTY COUNCIL
FOR MONTGOMERY COUNTY, MARYLAND
June Legislative Session 1983

Chapter 24
Laws of Montgomery County, 1984

AN ACT to amend the following sections of the Montgomery County Code 1972,
as amended, for the purposes of establishing procedures for
promulgation of executive regulations; providing for the publication of
a Code of Montgomery County Regulations; providing for the periodic
issuance of a Montgomery County Register, which is to be used as a
temporary supplement to the Code of Montgomery County Regulations; and
to provide for the periodic review of regulations: Chapter 2A, title
"Administrative Procedures Act"; Sections 1-18(c) and 1-19 of Chapter
1, title "General Provisions"; Section 2-99, title "Annual compilation
of laws...(etc.)" of Chapter 2, title "Administration"; Section 2-105,
title "Procedure for adoption of rules and regulations by the county
executive" of Chapter 2, title "Administration"; Sections 2-9, 2-15,
2-33, 2-42(c), and 2-140(a)(6) of Chapter 2, title "Administration":
Section 2B-5(a)(4) of Chapter 2B, title "Agricultural Land
Preservation"; Sections 3-4(a) of Chapter 3, title "Air Quality
Control"; Sections 3A-2 (c) and (f) and Section 3A-6 of Chapter 3A,
title "Alarms"; Section 4-31 of Chapter 4, title "Amusements"; Sections
5-4, 5-7(a), 5-21, 5-43, 5-44, 5-45(b), 5-59(a), 5-67 and 5-69 of
Chapter 5, title "Animal Control"; Section 5A-4(d) of Chapter 5A title
"Arts"; Sections 8-13, 8-33, 8-34, 8-35 and 8-36 of Chapter 8, title
"Buildings"; Sections 8A-11(e), 8A-13(b), 8A-18(f) and 8A-21(h) of

Chapter 8A, title Cable Communications"; Sections 10-3 and 10-11 of Chapter 10, title "Child Care"; Section 11-2(k) of Chapter 11, title "Consumer Protection"; Sections 11A-3(b)(2), 11A-5(e), 11A-7(c), 11A-9 and 11A-13 of Chapter 11A, title "Condominiums"; Sections 11B-18, 11B-20, 11B-23C, 11B-25, 11B-26(a), 11B-27 and 11B-39 of Chapter 11B, title "Contracts, procurement matters and public ethics"; Sections 13-1(a) and 13-7 of Chapter 13, title "Detention Centers and Rehabilitation Facilities"; Section 13A-4 and 13A-5 of Chapter 13A, title "Development Rights Fund"; Section 15-12 of Chapter 15, title "Eating and Drinking Establishments"; Sections 17-2(a) and (b), 17-22, 17-25(a), 17-37(a) and 17-38(b) of Chapter 17, title "Electricity"; Sections 19-6, 19-8, 19-17 and 19-31 of Chapter 19, title "Erosion and Sediment Control"; Section 19A-5(j) of Chapter 19A, title "Ethics"; Sections 21-4B(e) of Chapter 21, title "Fire and Rescue Services"; Sections 22-13, 22-37 and 22-96(g) of Chapter 22, title "Fire Safety Code"; Sections 23A-6, and 23A-9(a)(4) of Chapter 23A, title "Group Residential Care Facilities"; Section 24-9(j) of Chapter 24, title "Health and Sanitation"; Section 24A-4(h) of Chapter 24A, title "Historic Resources Preservation"; Section 25-18 of Chapter 25, title "Hospitals, Sanitariums, Nursing and Care Homes"; Sections 25A-3, 25A-6(a), and 25A-7(c) and (d), 25A-8(a) and 25A-10 of Chapter 25A, title "Housing, Moderately Priced"; Sections 25B-3(c)(5), 25B-4(b) and 25B-8 of Chapter 25B, title "Housing Policy"; Sections 26-21(g) and 26-22 of Chapter 26, title "Housing Standards"; Sections 27-6(a)(7), 27-6A(c), 27-26D(a), 27-29(g) and 27-42(j) of Chapter 27, title "Human Relations and Civil Liberties"; Sections 27A-4 and 27A-5(e) of Chapter 27A, title "Individual Water Supply and Sewage Disposal Systems"; Sections 29-10(a) 29-19, 29-28A(b)(3), and 29-49(a) of Chapter 29, title "Landlord-Tenant Relations"; Section 29A-5(b)(9) of Chapter 29A, title "Legislative Oversight"; Sections 30-2, 30-5, 30-8, 30-11 and 30-12 of Chapter 30, title "Licensing and Regulations Generally"; Sections 30B-3, 30B-10, 30B-13 and 30B-15 of Chapter 30B, title "Massage Establishments and Massage Technicians"; Sections 31-2, 31-5(b), 31-6(a), 31-9(b), 31-10, 31-21(b), 31-23, 31-26, 31-29(b),

31-30(a), 31-31(b), 31-33(a), 31-46(b), 31-48(b),(g)and (h), 31-51(a) and (b), 31-52(e), 31-57(a), 31-58, and 31-62(c) of Chapter 31, title "Motor Vehicles and Traffic"; Sections 31A-3(a), 31A-4(b) and 31A-8 of Chapter 31A, title "Motor Vehicle Repair and Towing Registration"; Sections 31B-3(d) and (e), 31B-10, 31B-12 and 31B-13 of Chapter 31B, title "Noise Control"; Sections 33-3(b), 33-7(b), 33-9(a), 33-12(b), 33-13, 33-13A(d), 33-18(g) and (j), 33-19(b), 33-47(b), and 33-77 of Chapter 33, title "Personnel"; Sections 35-3(c), 35-13A and 35-14(e) of Chapter 35, title "Police"; Sections 38A-4 and 38A-11 of Chapter 38A, title "Radio, Television and Electrical Appliance Installation and Repair"; Section 39-7 of Chapter 39, title "Rat Control"; Sections 41-4 and 41-23(a) of Chapter 41, title "Recreation and Recreation Facilities"; Sections 41A-2(a), 41A-3(c) and (e), 41A-7(a), 41A-9(a) and 41A-12 of Chapter 41A, title "Rent Supplement and Assistance Programs"; Sections 44-3(a)(5) and 44-22 of Chapter 44, title "Schools and Camps"; Sections 44A-3 (b), 44A-4(c), 44A-5, 44A-8(b) and (c), 44A-9, 44A-11(b) and 44A-16 of Chapter 44A, title "Secondhand Personal Property"; Sections 47-13 and 47-22 of Chapter 47, title "Solicitors, Hawkers and Peddlers"; Sections 48-6, 48-26, 48-29(d) and 48-32(a) of Chapter 48, title "Solid Wastes"; Sections 49-1, 49-4, 49-7, 49-23(a), 49-27, 49-33, 49-33A(c), 49-36, 49-38(b), (c) and (g), 49-40(e), 49-68A and 49-75 of Chapter 49, title "Streets and Roads"; Sections 51-11 and 51-12(a) of Chapter 51, title "Swimming Pools"; Sections 52-7(k), 52-8, 52-16B(k), 52-18A(c), 52-18B(k), 52-18C(m), 52-18D(d), 52-21(d), 52-21(h)(4) and 52-21(i)(4) and (7) of Chapter 52, title "Taxation"; Sections 53-18, 53-19(c) and (e), 53-37A, 53-42 and 53-46(c)(5) of Chapter 53, title "Taxicabs and Limousines"; Sections 53A-3, 53A-8(c) and 53A-10 of Chapter 53A, title "Tenant Displacement"; Sections 54-2, 54-15, 54-19 and 54-23 of Chapter 54, title "Transient Lodging Facilities"; and Sections 56-1, 56-2A, 56-6, 56-30(h) and 56-34 of Chapter 56, title "Urban Renewal and Community Development"; Sections 56A-5(a), 56A-8 and 56A-9(b) of Chapter 56A, title "Video Games".

Be It Enacted by the County Council for Montgomery County, Maryland, that -

Sec. 1. Chapter 2A, title "Administrative Procedures Act" of the Montgomery County Code 1972, as amended, be and hereby is amended to read as follows:

Chapter 2A

Administrative Procedures Act

Article 1. Appeals from Administrative Agencies

2A-1.

* * *

2A-2. Applicability

* * *

(c) Appeals, grievances and complaints filed pursuant to Chapter 33, as amended, for which hearings are provided or required by that Chapter before the Montgomery County Merit System Protection Board.

* * *

(f) Such other hearings as hereinafter provided for by law or executive regulations which are specifically designated as being governed hereby. In this regard, the County Executive is hereby authorized to add or delete additional quasi-judicial authorities from time to time by executive regulation adopted under Method (2) of Section 2A-15 of this Code.

2A-3. Conflicts of laws; interpretations.

(a) Where any provision of this Article conflicts with a substantive provision of an act pertaining to a particular agency, the latter shall prevail.

(b) The provisions of this Article are not intended to confer different or additional powers or jurisdiction on hearing authorities governed hereby; in this regard, this Article shall be construed to be procedural rather than substantive.

(c) The provisions set forth herein shall prevail over any agency rule of procedure and in the event of conflict, the latter shall be amended to conform with this Article; provided, however, that nothing herein shall be construed to limit or restrict a hearing authority from adopting additional rules of procedure as will implement this Article and the substantive provisions under which it operates so long as they are not in conflict with this Article.

(d) No action taken hereunder shall be declared invalid on the basis of procedural irregularities absent a finding of a denial of substantive due process. Substantial compliance with this Article shall be sufficient.

2A-4. Definitions.

The following words and phrases shall have the meaning assigned to them below, except when otherwise indicated in this Article.

Hearing authority. The Montgomery County Commission on Human Relations, or designated panel thereof; the Montgomery County Merit System Protection Board; the County Board of Appeals for Montgomery County; the Montgomery County Landlord-Tenant Commission, the Director of the Montgomery County Office of Consumer Affairs; or a hearing examiner or official so designated or appointed to conduct those hearings which are enumerated in Section 2A-2.

* * *

2A-5. Initiation of hearing process.

Any proceeding governed by this Article as specified in Section 2A-2 shall be initiated by filing a charging document in writing with the office of the hearing authority on forms provided therefor. Such forms shall include or be accompanied by a written statement which may include: a description of the nature and specifics of the allegation together with reference to sections of applicable laws, ordinances or regulations, if known, which are alleged to have been violated or relied upon. The statement shall contain the nature of the relief requested and if applicable the names and addresses of the person, persons, business entity or organization or agency alleged to have committed any violation or undertaken any action which is the subject of the proceedings governed by this Article. The statement may be accompanied by supporting documentation.

* * *

2A-8. Hearings.

* * *

(h) Powers of the hearing authority. In addition to any other power granted by this Article, a hearing authority is empowered:

* * *

(10) To take any other action authorized by this Article or necessary to a fair disposition of the case.

* * *

(i) Hearing conduct and procedure.

(1) Unless otherwise provided by law:

* * *

c. The members of any hearing authority shall be subject to disqualification for conflict of interest, and suggestions for disqualification of any member may be made on petition of any party.

* * *

(j) Sanctions. The hearing authority may impose sanctions against parties and witnesses for failure to abide by the provisions of this Article, or for unexcused delays or obstructions to the pre-hearing and hearing process. Such sanctions may include suspension or continuance of scheduled hearings, dismissals of actions, denial of admission of documents and exhibits and admission of matters as adverse to a defaulting party.

* * *

2A-9. Emergency hearings.

Where the ordinary processing of any appeal may, due to time constraints, cause injury to any party, the hearing authority may for good cause grant an emergency hearing on its own motion or upon good cause shown by any party thereto. Where an emergency hearing is ordered by a hearing authority, it may suspend or alter any provisions of this Article necessary to avert such undue injury; provided, however, that in such cases, the hearing authority shall notify all parties of the operation of this Section, and make every reasonable effort to provide substantive due process of law to all parties. All hearings involving the removal or suspension of a County Merit System employee shall be governed by this Section.

2A-10. Decisions.

* * *

(c) Voting requirements.

Any decision rendered in conformance with the provisions of this Article must have the concurrence of a majority of the voting members of the decision making authority unless a greater number of votes are required by

law. Members of the hearing authority absent during a hearing may vote upon a matter upon written certification that they have read the transcripts and reviewed the evidence of record.

Failure to achieve the necessary affirmative votes shall act as a denial of the relief requested by the charging party by operation of law. No written opinion in this instance shall be required; provided, however, individual members of the hearing authority may file written reasons supporting their respective positions.

* * *

2A-11. Judicial review.

Any party aggrieved by a final decision in a case governed by this Article, whether such decision is affirmative or negative in form, may appeal said decision to the Circuit Court for Montgomery County, Maryland, in accord with the provisions of the Maryland Rules of Procedure governing administrative appeals. Said court shall have the power to affirm, reverse or modify the decision or remand the case for further proceedings as justice may require. The filing of such appeal shall not stay the order of the hearing authority. Any party to the proceeding in the Circuit Court may appeal from such decision to the appellate courts of Maryland pursuant to applicable provisions of the Maryland Rules of Procedure.

Article II. Regulations

2A-12. Declaration of Policy and Legislative Intent.

(a) Purpose. It is the purpose of this article to prescribe a single and consistent procedure for the adoption, periodic review and repeal of regulations, and to provide a uniform procedure for their public notification and compilation.

(b) Scope. Unless otherwise provided, the provisions of this Article apply to all regulations.

2A-13. Definitions.

(a) In General. Unless otherwise clearly indicated by the context, in this Article the following words have the meanings indicated.

(b) Administrative Procedure. "Administrative Procedure" means any written directive concerning the internal management of one or more County agency or department.

(c) CAO. "CAO" means the Chief Administrative Officer of the County.

(d) COMCOR. "COMCOR" means the Code of Montgomery County Regulations established under this Article.

(e) Executive Order. "Executive Order" means an order issued by the County Executive that directs a specific action.

(f) Promulgator. "Promulgator" means:

- (1) The County Executive; or
- (2) A person authorized by law to issue regulations.

(g) Regulation. (1) "Regulation" means any rule or standard that a promulgator by law is authorized to issue.

(2) "Regulation" includes any amendment to an existing regulation.

(h) Register. "Register" means The Montgomery County Register established under this Article.

2A-14. Authority to Adopt Regulations. If a law authorizes a promulgator to implement or enforce that law, the promulgator may adopt regulations to implement or enforce that law even if the authority to adopt the regulations is not specifically stated in that law.

2A-15. Procedure for Adoption of Regulations.

(a) Requirement. Before a regulation is effective, the regulation shall meet:

- (1) The requirements of this Article; and
- (2) Any other requirement imposed by law.

(b) Single Subject Requirement. A proposed regulation may not contain more than one subject matter.

(c) Publication. A promulgator shall publish in the Register:

- (1) A summary of the proposed regulation;
- (2) The place where a copy of the proposed regulation may be obtained;
- (3) The date, time, and place of any public hearing;
- (4) The name and address of a person to whom comments may be directed;
- (5) The deadline for submitting comments;
- (6) A citation of the section of the County code that authorizes the adoption of the regulation; and
- (7) A statement of the procedural method under Subsection (d) of this Section that is to be used.

(d) Procedures for Approval. (1) A regulation shall be adopted under one of the 3 methods set out in this Subsection.

(2) A law authorizing a regulation may provide for one of the three methods to be used.

(3) If the law does not provide one of the three methods to be used, Method (2) shall be used.

Method (1)

1. The promulgator shall send a copy of the proposed regulation to the County Council within 14 calendar days after the deadline for comments published in the Register.

2. Within 30 calendar days after receipt of the proposed regulation under Part 1 of this Method, the County Council President may set a deadline for approval or disapproval of the proposed regulation.

3. If a deadline under Part 2 of this Method is not set, the proposed

regulation is placed on the Council agenda that immediately follows the 30 calendar days after receipt of the proposed regulation.

4. If necessary to assure complete review, the County Council by resolution may extend the deadline for County Council action.

5. The County Council by resolution may approve or disapprove in whole or in part the proposed regulation.

6. If the County Council approves the regulation, the regulation is effective 30 calendar days after the date of adoption of the resolution approving the regulation.

Method (2)

1. The promulgator shall send a copy of the proposed regulation to the County Council within 14 calendar days after the deadline for comments published in the Register.

2. The County Council by resolution may approve or disapprove in whole or in part the proposed regulation within 30 calendar days after receipt of the proposed regulation under Part 1^a of this Method.

3. If necessary to assure complete review, the County Council by resolution may extend the 30 calendar day deadline under Part 2 of this Method.

4. If the County Council approves the proposed regulation, the regulation is effective 30 calendar days after the date of adoption of the resolution approving the regulation.

5. If the County Council does not approve or disapprove the proposed regulation within the 30 calendar days after receipt of the proposed regulation under Part 1^a of this Method, the proposed regulation is automatically approved.

6. If the proposed regulation is automatically approved under Part 5 of this Method, the regulation is effective 60 calendar days after receipt of the proposed regulation under Part 1 of this Method.

7. If the County Council extends the time for approval or disapproval under Part 3^b of this Method, until the expiration of the extended time, the proposed regulation is not automatically approved.

Method (3)

1. A proposed regulation under this Method is not subject to County Council approval or disapproval.
2. The promulgator shall send a copy of the proposed regulation to the County Council.
3. The regulation is effective 30 calendar days after the deadline for comments published in the Register.

(e) Amendment of Proposed Regulation. The promulgator may amend a proposed regulation if:

- (1) The County Council has not taken final action on the proposed regulation; and
- (2) The amendment relates to the advertised purpose of the proposed regulation.

(f) Withdrawal of Proposed Regulation. No later than 10 days before the effective date of a proposed regulation, the promulgator may withdraw the proposed regulation.

(g) Publication of Final Action. (1) In the issue of the Register that follows the final action taken on a proposed regulation, the promulgator shall publish the final action taken on the proposed regulation.

(2) If the proposed regulation is approved, the promulgator shall:

a. If a substantive change to the proposed regulation is not made, cite the issue of the register that contains the initial publication of notice of the proposed regulation; or

b. If a substantive change to the proposed regulation is made, publish a summary of the proposed regulation as amended.

(h) Emergency Regulations. (1) If a promulgator determines that an emergency exists, an emergency regulation does not have to meet the publication and approval requirements of Subsection (c) and (d) of this Section.

(2) An emergency regulation is effective:

a. Immediately after:

1. The adoption of the emergency regulation by the promulgator; and

2. The promulgator sends to the County Council a copy of the proposed regulation and a statement of reason for the emergency regulation; and

b. For a period of 45 days.

(3) a. The promulgator may request the County Council to extend the effective period of an emergency regulation.

b. The promulgator shall provide the County Council with written information stating the reason for an extension request.

(4) a. The County Council by resolution may repeal an emergency regulation.

b. If the County Council repeals an emergency regulation, the County Council shall give written notice to the promulgator of the reason for the repeal.

2A-16. Administrative Procedures.

(a) Collection. The CAO shall develop a comprehensive collection of administrative procedures.

(b) Copy to the County Council. The CAO shall provide the Secretary of the County Council with a copy of the administrative procedures.

(c) Availability. The administrative procedures shall be available to any County employee.

(d) Prohibition. If a law delegates to a promulgator the authority to adopt a regulation, the promulgator may not adopt an administrative procedure instead of a regulation.

2A-17. Executive Orders.

(a) Procedure for Adoption. The County Executive shall develop an administrative procedure for the adoption of any executive order.

(b) Content of Procedure. The administrative procedure shall provide for:

- (1) Adoption.
- (2) Notice.
- (3) Compilation.
- (4) Amendment.
- (5) Repeal.

(c) Copy to County Council. The County Executive shall provide the Secretary of the County Council with a copy of each executive order adopted.

2A-18. Compilation of Executive Regulations.

(a) COMCOR established. There is a code of Montgomery County regulations that includes:

- (1) Each regulation of the County government;
- (2) Any document that the CAO determines should be included;
- (3) Annotations of any judicial decision that cites a regulation or document contained in COMCOR;
- (4) Any explanatory annotation; and
- (5) An index by agency and subject matter.

(b) Duties of CAO. (1) The CAO shall compile, edit, index, and supplement COMCOR.

(2) The CAO may procure a contract to meet the requirements of this Subsection.

(c) Plain Language Standards and Codification Systems. (1) Any regulation adopted under this Article shall be written under the plain language standard approved by the County Council.

(2) The CAO shall establish a codification system for executive regulations.

(3) Any regulation or document published in COMCOR shall meet the plain language standard and codification system of this subsection.

(d) Removal of Obsolete Regulations. With the advice of the County Council, the CAO may remove a regulation or a part of a regulation from COMCOR if:

- (1) The regulation is declared unconstitutional by a court of final appeal; or
- (2) The department or agency that enforced or administered the regulation ceases to exist and the functions and responsibilities of the department or agency are not transferred to a successor.

(e) Supplement to COMCOR. (1) At least once a year, each regulation adopted during the year and any document that the CAO determines should be included shall be published in a supplement to COMCOR.

(2) The index to COMCOR shall be revised and included in the supplement.

2A-19. Montgomery County Register.

(a) Register Established. There is a Montgomery County Register that:

- (1) Is a temporary supplement to COMCOR;
- (2) Publishes any regulation adopted between issues of the Register; and
- (3) Includes:
 - a. The information required under Section 2A-15 of this Article for each regulation;
 - b. Any document that the CAO determines should be included;
 - c. A table of contents; and
 - d. An index of the COMCOR sections affected.

(b) Duties of the CAO. (1) The CAO shall compile and publish the Register.

(2) The CAO may procure a contract to meet the requirements of this Subsection.

(c) Frequency of Publication. The Register shall be published at least once every three months.

2A-20. Pricing and Availability of COMCOR and the Register.

(a) Pricing. The CAO shall set a reasonable price for each copy or each subscription of:

- (1) COMCOR;
- (2) The Register; or
- (3) The supplements to COMCOR.

(b) Availability. Anyone may purchase a copy of:

- (1) COMCOR;
- (2) The Register; and
- (3) The supplements to COMCOR.

(c) Free Distribution. A copy of COMCOR, the Register, and the supplements to COMCOR shall be distributed to:

- (1) The Secretary of the County Council;
- (2) The County Attorney;
- (3) The County Executive;

- (4) The State Hall of Records Commission;
- (5) The State Law Library;
- (6) The State Department of Legislative Reference;
- (7) The Maryland-Municipal Collection of the Montgomery County Department of Public Libraries;
- (8) The Office of Legislative Oversight;
- (9) Any person that the County Council by resolution designates; and
- (10) Any person that the County Executive by executive order designates.

2A-21. Review of Regulations.

(a) Review Required. At least once every 4 years, each regulation shall be reviewed by the County Council.

(b) Duties of the CAO. The CAO shall:

(1) Before July 1, 1984, establish four groups of regulations by agency to be reviewed; and

(2) Designate each new regulation adopted to a group established under Paragraph (1) of this Subsection.

(c) Time for Initial Review. (1) Group I is subject to review in FY 1985;

(2) Group II is subject to review in FY 1986;

(3) Group III is subject to review in FY 1987; and

(4) Group IV is subject to review in FY 1988.

(d) Manner of Review. Each regulation shall be reviewed in the same manner as the Method under Section 2A-15 of this Article that is designated for the adoption of the regulation.

(e) Regulations Under Methods (1) and (2). If a Regulation is to be reviewed under Method (1) or (2) of Section 2A-15 of this Article, by October 15 of the year that the regulation is subject to review, the promulgator shall submit to the County Council:

(1) A copy of the regulation;

(2) A copy of the regulation written under the plain language standard adopted by the County Council;

(3) A copy of any form used to carry out the regulation;

(4) A statement of any change to the regulation that the promulgator proposes;

(5) A statement of any change in condition or law that affects the regulation; and

(6) A statement of why the regulation is needed and that a simpler way of accomplishing the purpose of the regulation cannot be found.

(f) Regulations Under Method (3). If a regulation is to be reviewed under Method (3) of Section 2A-15 of this Article, by October 15 of the year that the regulation is subject to review, the promulgator shall:

(1) Review the regulation for any change in condition or law that affects the regulation; and

(2) Rewrite the regulation in the plain language standard adopted by the County Council.

(g) Repeal of Regulation. (1) For any regulation reviewed under Method (1) of Section 2A-15 of this Article, if the County Council by resolution does not extend the regulation before February 15 of the year after the regulation is subject to review, the regulation is repealed as of June 30 of that year.

(2) For any regulation reviewed under Method (2) of Section 2A-15 of this Article, if the County Council by resolution does not repeal the regulation before February 15 of the year after the regulation is subject to review, the regulation continues in effect.

Sec. 1A. Sections 1-18(c) and 1-19 of Chapter 1, title "General Provisions" of the Montgomery County Code 1972, as amended, be and hereby are amended to read as follows:

1-18. Civil fines and procedures.

(c) Amount of fine.

The amount of the civil fine which is to be imposed for a violation is that amount set forth in Section 1-19, unless a lower amount for a specific violation has been established by an executive regulations adopted by the County Executive under Method (1) of Section 2A-15 of this Code.

1-19. Enforcement of County Law.

Violations of County laws, ordinances and regulations identified as Class A, B, or C violations shall, upon conviction thereof before a court of competent jurisdiction, be punishable as a misdemeanor by a fine of not more than the amount shown below, or both such fine and imprisonment, in the discretion of the court.

Violations may, in the alternative and at the discretion of the agency responsible for enforcement thereof, be punishable as a civil violation, as set forth in Section 1-18. The civil fine shall be in the amount shown below, unless a lower amount for a specific violation has been established by an executive regulation adopted by the County Executive under Method (1) of Section 2A-15 of this Code.

Sec. 2. Section 2-99, title "Annual compilation of laws, ordinances, regulations or cumulative supplement - Required; preparation and publication; contents" of Chapter 2, title "Administration" of the Montgomery County Code 1972, as amended, be and hereby is amended to read as follows:

2-99. Annual compilation of laws, ordinances, regulations or cumulative supplement - required; preparation and publication; contents.

The County Attorney shall prepare and have published and printed under his direction, as soon as practicable after June 30, of each year a bound, hardback compilation or cumulative supplement to the Montgomery County Code which shall include the following:

(a) Laws enacted during the last previous twelve-month period ending June 30, etc. Laws enacted by the Council during the last previous twelve-month period ending June 30 or a cumulative supplement containing, as

amended, the sections of the Montgomery County Code amended during the preceding fiscal years, cumulated since the last publication of the Code, by enactments of the Maryland General Assembly or the Montgomery County Council.

(b) Other laws, etc. Other laws and ordinances enacted by the County Council, cumulated since the last publication of the Code which are not codified by section of the Montgomery County Code, shall be included in an appropriate place in every cumulative supplement; except, that standards and regulations adopted by reference to an existing specific publication need not be included in a cumulative supplement provided that the legislative vehicle by which such standard or regulation was adopted is included.

(c) Appropriation resolution. The appropriation resolution adopted by the County Council for the fiscal year current at the time of publication.

(d) Cumulative table of sections. A table of the sections of the County Code repealed, added or amended subsequent to the publication of the last edition of the Montgomery County Code.

(e) Changes in Constitution, etc. Changes in Article XI-A of the Maryland Constitution, Article 25A of the Annotated Code of Maryland, the Charter, and the rules of legislative procedure of the County Council.

(f) Indices. Appropriate indices of the foregoing.

Sec. 3. Section 2-105, title "Procedure for adoption of rules and regulations by the County Executive" of Chapter 2, title "Administration" of the Montgomery County Code 1972, as amended, be and hereby is repealed in its entirety. Any reference in the County Code to Section 2-105 shall be deemed to refer to Article II of Chapter 2.

Sec. 4. Sections 2-9, 2-15, 2-33, 2-42(c), and 2-140(a)(6) of Chapter 2, title "Administration", be and hereby are amended to read as follows:

2-9. County vehicles - Storage, parking, markings or identification, designation and use generally

Storage, parking, markings or identification, designation and use of County vehicles shall be provided for in executive regulations adopted by the County Executive under Method (3) of Section 2A-15 of this Code; provided, that in accordance with Section 2-10, such vehicles shall be used only for official County business.

2-15. Same - Arms and ammunition; civilian defense personnel; rules, regulations, etc.

In order to carry out the provisions of Sections 2-14 through 2-16 of this Code the County Executive may provide and furnish arms and ammunition to the citizens of the County or to the militia of the State, and may provide and furnish any or all persons engaged in public defense within the County with protective armor and such other equipment and supplies and also purchase, rent, hire and maintain lands, buildings, and equipment as may be considered to be necessary and proper. The County Executive may engage the service of persons charged with assisting in public defense and may, with the approval of the Council, fix the compensation of such persons, including the payment for services heretofore rendered in connection with the civilian defense activities of the County, and may do all other things needful and necessary to protect and safeguard the people and property within the County from actual or threatened armed invasion or insurrection, and may alleviate their suffering resulting from fire, flood, disaster or epidemic of disease, or other such emergencies. The County Executive is authorized to adopt regulations under Method (2) of Section 2A-15 of this Code to protect the citizens of the County during blackouts, practice air raid alarms, air raids and invasion. All acts done and all money expended by the County for such purposes, either heretofore or hereafter, including the purchase of equipment for civilian defense organization and maintenance, the employment of administrative and technical aid in the interest of civilian defense, the purchase of medical supplies for casualty stations, and the purchase of arms, ammunition and providing and furnishing of telephone service and other service and supplies are hereby ratified and confirmed as just and lawful acts of the County.

2-33. Collection of taxes and special assessments; receipt of and responsibility for money; service charge for dishonored checks or drafts.

The Director of Finance shall collect all taxes and special assessments levied by the County Council, and such other taxes and assessments the collection of which may by the Charter or public general or local law be charged to the Department of Finance. The Director of Finance shall receive all money paid to the County from any source. The Director of Finance shall not be responsible for money paid to persons or officials not under the

Director's direction or control, until such monies have been properly transferred to the Director of Finance or someone designated by the Director for receipt of such funds.

When any check or draft tendered to Montgomery County in payment of any tax, fee, charge, penalty, interest or fine due the County is dishonored by a bank, a service charge of ten dollars or such other reasonable amount as may be established by executive regulation, adopted by the County Executive under Method (3) of Section 2A-15 of this Code, shall be imposed and added to the amount due and owing. The Director may require that the total amount due, including the service charge, be paid in cash, certified check or money order.

2-42. Generally

(c) Eligibility and fees for services. The Council is hereby authorized to adopt resolutions establishing eligibility for service. Fee schedules for any Health Department services shall be established by the County Executive, by regulations adopted under Method (3) of Section 2A-15 of this Code, who may from time to time change such fees to an amount not to exceed the cost of the services provided therefor.

2-140. Powers, duties and functions.

(a) The Office of the Hearing Examiner shall have the following powers, duties and functions:

(6) To recommend regulations to the County Council to be adopted under Method (2) of Section 2A-15 of this Code to govern the conduct of public hearings and other functions of the Office of the Hearing Examiner.

Sec. 5. Section 2B-5(a)(4) of Chapter 2B, title "Agricultural Land Preservation" be and hereby is amended to read as follows:

2B-5. Agricultural easements - Generally.

(a) Purchase of easements.

(4) The purchase of easements by the County must be consistent with the General Plan of Montgomery County, as amended by applicable master plans. The County Executive shall adopt regulations, under Method (2) of Section 2A-15 of this Code, for the County purchase of easements.

Sec. 6. Section 3-4 of Chapter 3, title "Air Quality Control" be and hereby is amended to read as follows:

3-4. Rules and regulations.

(a) The County Executive may adopt regulations under Method (2) of Section 2A-15 of this Code, for this Chapter. Such regulations shall not conflict with nor waive any provisions of this Code nor be less restrictive than regulations currently established and in effect as requirements of the State Department of Health and Mental Hygiene.

(b) Regulations adopted pursuant to provisions of this Section shall provide for but not be limited to the following:

(1) Control of particulate matter emissions from fuel burning installations, grain drying installations, materials handling and construction and other acts and installations;

(2) Control of gas, vapor, odor and volatile organic compound emissions from fuel burning and other installations;

(3) Prohibition of certain incinerators and new fuel burning installations;

(4) Application fees at a rate not to exceed the cost of administering the program.

(c) Notwithstanding any other provisions of this Section, the County Executive may adopt regulations, under Method (2) of Section 2A-15 of this Code, regarding procedures for the issuance of permits for indirect sources of pollution in accordance with applicable State and Federal regulations.

Sec. 6A. Sections 3A-2 (c) and (f) and Section 3A-6 of Chapter 3A, title "Alarms" of the Montgomery County Code 1972, as amended, be and hereby are amended to read as follows:

3A-2. Alarm signal response fees.

(c) The Office of Consumer Affairs will be responsible for publishing procedures and fees for the registration and the issuing of licenses to all alarm businesses that have consumers in Montgomery County and the issuing of the permits and permit decals to non-residential alarm users. The Office of Consumer Affairs will be responsible for the collection of the assessed fees hereunder.

(f) The County Executive may adopt regulations, under Method (3) of Section 2A-15 of this Code, establishing procedures and fees for the registration and the issuing of licenses, permits and permit decals, and

outlining the pertinent information needed from alarm businesses when reporting alarms directly to the police. Failure to provide the required information when notifying the police of an alarm may be cause for the suspension or revocation of the alarm business license by the Office of Consumer Affairs.

3A-6. Rules and regulations.

The County Executive shall adopt, under Method (2) of Section 2A-15 of this Code, reasonable and necessary regulations for the implementation and administration of this Chapter.

Sec. 7. Section 4-31 of Chapter 4, title "Amusements", be and hereby is amended to read as follows:

4-31. Applications generally.

All applications for a license required by this Division shall be made to the Department on such form as shall be designated. Applications shall not be accepted for filing unless accompanied by a receipt of the Director of Finance showing payment to the County of a filing fee of fifty dollars, or such other amount as may be established by regulation adopted by the County Executive under Method (3) of Section 2A-15 of this Code, such fee to cover the cost of advertising in the newspaper and providing a transcript of the testimony at the hearing. No fee shall be refunded.

Sec. 8. Sections 5-4, 5-7(a), 5-21, 5-43, 5-44, 5-45(b), 5-59(a), 5-67 and 5-69 of Chapter 5, title "Animal Control" be and hereby are amended to read as follows:

5-4. Adoption of additional regulations.

The County Executive is hereby authorized to adopt regulations under Method (2), of Section 2A-15 of this Code, necessary for the implementation of any of the provisions of this Chapter, including fees necessary for the administration of the Chapter.

5-7. Spaying, neutering and altering clinics.

(a) The County Executive shall establish a clinic or clinics to be operated either by the County or under contract, at which residents may have dogs or cats spayed, neutered or altered in a humane manner by a licensed veterinarian upon the payment of a fee to be determined by the County Executive by executive regulation adopted under Method (3) of Section 2A-15 of

this Code. Such fee may, in the discretion of the County Executive, be either uniform or graduated based on ability to pay. In cases of demonstrated inability to pay the required fee, the animal of such owner may be spayed, neutered or altered without charge. In addition, the County Executive may, in the Executive's discretion, contract for such services to be performed by licensed veterinarians at their own places of business.

5-21. Same - Redemption and disposition generally.

(a) The owner of any animal impounded for running at large or any vicious or dangerous animal impounded as hereinabove provided shall be entitled to redeem such animal upon payment of redemption fees established by written regulations of the County Executive, adopted under Method (3) of Section 2A-15 of this Code, and proof of ownership; provided, that the licensing provisions of this Chapter have been complied with.

(b) No animal impounded due to a violation of any Section of this Chapter, which has been previously impounded for a violation of any Section of this Chapter during the preceding twelve months, shall be released until a notice of violation of the applicable Section has been issued to the owner of such animal.

(c) Any domesticated animal which is impounded and not redeemed by its owner within five days following notice of impoundment shall be deemed abandoned and shall become the property of the County and may be adopted pursuant to Section 5-22 of this Chapter or otherwise disposed of in a humane manner which shall take into account the advice of a licensed veterinarian, in accordance with procedures prescribed by the County Executive by written regulation adopted under Method (3) of Section 2A-15 of this Code, such procedures to be examined periodically by a licensed veterinarian to assure that they are being carried out in a humane manner.

5-43. Maintenance of vaccination clinics.

The Health Officer shall maintain at least annually vaccination clinics at convenient locations in the County for such periods as he shall deem necessary and all dogs may be vaccinated at such clinics during such periods. The County Executive may, by written regulation adopted under Method (3) of Section 2A-15 of this Code, establish a fee for vaccinations to be collected in lieu of a license fee not to exceed the costs of administration.

5-44. Issuance of new vaccination certificate to replace lost or destroyed certificate.

The Health Officer or veterinarian who administered the vaccination shall issue a new vaccination certificate to replace a lost or destroyed certificate upon satisfactory evidence showing that the dog or cat was vaccinated pursuant to the provisions of this Article. The County Executive may, by written regulation adopted under Method (3) of Section 2A-15 of this Code, establish a fee for replacement of lost or destroyed vaccination certificates, not to exceed the costs of replacement.

5-45. Vaccination required.

(b) No person licensed pursuant to Article VII of this Chapter may sell a dog or cat four months of age or less, unless a deposit is received for the purpose of ensuring that the dog or cat will be vaccinated against rabies. The amount of the deposit shall be \$10.00 or such other amount, not to exceed \$50.00, as is specified by executive regulations adopted by the County Executive under Method (3) of Section 2A-15 of this Code. The County Executive is authorized and directed to adopt regulations, under Method (3) of Section 2A-15 of this Code, specifying procedures for the collection, handling and use of the deposits.

5-59. Required; issuance; duration.

(a) It shall be unlawful for any person to own or harbor a dog over the age of four months unless such dog is licensed as provided by this Article. Every person owning or harboring a dog within the County shall on or before July 1 of each year or within ten days of acquiring any dog over four months of age or within ten days after any such dog becomes four months of age obtain an annual license for each dog so owned or harbored, except dogs kept under a commercial kennel or fanciers' kennel license as provided in this Chapter. The fee for all such individual dog licenses shall be established by the County Executive by written regulation adopted under Method (3) of Section 2A-15 of this Code; provided, that no fee shall be charged for the licensing of any dog trained to aid the blind and actually in use for such purpose; and provided further, that the County Executive shall establish a differential license fee for spayed and unspayed female dogs as a means to encourage owners to have their animals spayed. When applications are made between January 1

and May 1 and the dog was not subject to licensing before that date, the license fee shall be one-half the specified amount. The County Executive may, by written regulation adopted under Method (3) of Section 2A-15 of this Code, increase or diminish any fees to an amount not to exceed the costs of administering and enforcing this Chapter.

5-67. Required; fee; issuance.

(a) It shall be unlawful for any person, association or corporation to operate, establish or maintain a pet shop either independently or as part of another commercial enterprise without first obtaining an annual license therefor from the Department. The license fee for pet shops shall be fixed by executive regulation adopted under Method (3) of Section 2A-15 of this Code by the County Executive who may from time to time increase or diminish such fee to an amount not to exceed the cost of administering this Article. Dogs harbored by a licensed pet shop for breeding purposes or sale may be taken under close supervision from the pet shop for exercise and returned to the pet shop in like manner but no dog harbored at a licensed pet shop may otherwise be permitted to leave the establishment without wearing an individual dog license tag if such a license is required under the provisions of this Chapter.

(b) It shall be unlawful for any person, association or corporation to operate, establish or maintain a commercial kennel without first obtaining an annual license therefor from the Department. The license fee for commercial kennels owning or keeping not more than twenty-five animals shall be twenty-five dollars and for commercial kennels owning or keeping more than twenty-five animals the license fee shall be fifty dollars; provided, that the County Executive may from time to time adopt executive regulations under Method (3) of Section 2A-15 of this Code to increase or diminish such fees to an amount not to exceed the cost of administering and enforcing this Article. Dogs harbored by a licensed commercial kennel for breeding purposes or sale may be taken under close supervision from the commercial kennel for exercise and returned to the commercial kennel in like manner but no dog harbored at a licensed commercial kennel may otherwise be permitted to leave the establishment without wearing an individual dog license tag if such a license is required under the provisions of this Chapter.

* * *

(d) It shall be unlawful for any person, association or corporation to establish, operate or maintain a riding school or stable without first obtaining an annual license therefor from the Department. The license fees for riding schools and stables shall be fixed by the County Executive, by executive regulation adopted under Method (3) of Section 2A-15 of this Code, who may from time to time increase or diminish such to an amount not to exceed the cost of administering this Article.

* * *

5-69. Renewal; notification.

The holder of any expiring license under this Article desiring a new annual license to be effective on the expiration of the existing license shall, not less than thirty nor more than sixty days before the expiration of the existing license, file a written application for renewal with the Director giving such information as is required on the form provided therefor and pay the annual renewal fee in such amount as may be fixed from time to time by executive regulation adopted by the County Executive under Method (3) of Section 2A-15 of this Code. Licensees shall be notified by the Director at least sixty days prior to the expiration of a license.

Sec. 9. Section 5A-4(d) of Chapter 5A, title "Arts" be and hereby is amended to read as follows:

5A-4. Same - Membership and organization.

(d) The Arts Council should establish regulations adopted under Method (2) of Section 2A-15 of this Code concerning its operation and functions; elections and/or appointments and terms of office of its governing body and officers; conduct of its meetings and administrative procedures relating to its activities.

Sec. 10. Sections 8-13, 8-33, 8-34, 8-35 and 8-36 of Chapter 8, title "Buildings" be and hereby are amended to read as follows:

8-13. Rules and regulations.

(a) The director may recommend written regulations for the administration of the provisions of this Chapter including a schedule of fees and may, at his discretion, hold public hearings as part of this rule-making process. Such regulations and amendments thereto shall not conflict with nor waive any provisions of this Chapter nor be less restrictive than its

provisions and shall be adopted by the County Executive under Method (2) of Section 2A-15 of this Code. In the case of fees, the County Executive shall promptly forward to the County Council a copy of the new fee schedule for use in budgetary planning activities. Such fees shall be in accordance with formulas based upon criteria to include area or estimated cost of construction or a minimal set fee per category, not to exceed the cost of administering and enforcing this Code.

(b) The Director shall hold public hearings, upon adequate public notice, prior to forwarding his or her recommendations for regulations setting forth the standards and requirements for the construction, alteration, addition, repair, removal, demolition, use, location, occupancy and maintenance of all buildings and structures, on-site access facilities to such buildings and structures and their service equipment within the County. Such regulations, adopted under Method (2) of Section 2A-15 of this Code, shall be based upon a designated edition of the BOCA Basic Building Code and local amendments thereto.

(c) Those provisions of Chapter 8 regulating standards and requirements described in subsection (b) herein repealed by this Act, shall continue in force and effect until they are superseded by regulations adopted and approved in accordance with subsection (b).

8-33. Application; fee; qualifications.

The Director shall maintain a register for the Board of all applicants for business and all licenses, in such form as the Board shall require.

Any person desiring to be licensed as a building contractor in the County shall make and file with the Director a written application on a form approved by the Board. Each application shall be accompanied by an application fee which shall be established by the County Executive by written regulation adopted under Method (3) of Section 2A-15 of this Code. The applicant shall furnish information as to his character references and financial responsibility, his experience or training and education or the experience and training and education of his associates, construction superintendent or other principal employees in the building trade as the Board shall require. Before the issuance of a license the Director shall ascertain from reliable sources the applicant's record of compliance with the laws of

the State and the County. The Board may request further information from the Director or other sources, make independent investigations and conduct examination of the applicant, at its discretion. On the basis of the foregoing, it shall be the Board's duty, within thirty days after submission of an application for a license, unless the time is extended for good cause, to certify to the Director whether the applicant and his organization are qualified to comply with the building code and laws of the County and State, and to perform fully his building contracts, and whether he should be licensed and then to notify the applicant. In no case shall denial of certification be unreasonable and a denial shall be in writing stating the reason and shall be personally served or mailed by certified mail to the address on the application. Any denial may be appealed to the County Board of Appeals by filing notice of appeal with the Clerk of the Board of Appeals not later than ten days after such notice is personally served or mailed.

8-34. Issuance; bond required; fee.

The Director shall issue a license to applicants qualified to be licensed upon payment of a license fee which shall be established by the County Executive by written regulation adopted under Method (3) of Section 2A-15 of this Code, and deliver to the County a cash bond or a corporate bond executed by a surety company qualified to transact business in the State in the amount of two thousand dollars. The cash or corporate bond shall run to the County and shall be conditioned upon the licensee performing all work done by him in the County in accordance with the building code and laws of the County and State. The County or any person damaged by failure of the licensee to comply with such code and laws may proceed against such bond in any court of competent jurisdiction.

This bonding provision may be satisfied if the applicant has obtained a bond in at least the amount of two thousand dollars in connection with an organized program approved by the Board, which program provides procedures for the processing and resolution of complaints against such building contractor and thus affords substantially the same bonding protection to the public as the bond required by this Chapter.

The Director shall immediately revoke the license upon failure of any licensee to maintain such bond.

8-35. Term of licenses; renewals.

Licenses issued under this Article shall be valid for one year from the date of issuance and may be renewed upon application to the Director.

Applicants for renewal shall pay to the County at the time of filing such application a fee which shall be established by the County Executive by written regulation adopted under Method (3) of Section 2A-15 of this Code.

8-36. Display; duplicates.

Holders of licenses issued under this Article shall display the same in a prominent place at their place of business and upon demand shall give the number of the license to any person who shall demand the same. If any license is lost, defaced or destroyed, the licensee may obtain a duplicate upon application to the Director and payment of a fee which shall be established by the County Executive by written regulation adopted under Method (3) of Section 2A-15 of this Code.

Sec. 11. Sections 8A-11(e), 8A-13(b), 8A-18(f) and 8A-21(h) of Chapter 8A, title "Cable Communications" be and hereby are amended to read as follows:

8A-11. Operations; minimum channel capacity; access channels; production facilities; charges; privacy.

(e) Further conditions for utilization of educational, general public and County government access shall be determined by subsequent local legislation or by executive regulation adopted by the County Executive under Method (1) of Section 2A-15 of this Code. Subject to the franchise agreement, where such legislation or regulations cause an increase in a franchisee's costs, the County shall negotiate compensation to it therefor.

8A-13. Operational Requirements; tests.

(b) Tests. In addition to all performance tests required to be conducted by the FCC, the County may require additional tests from time to time as required to determine compliance with technical performance standards. The County may require full or partial repeat tests, different test procedures, or tests involving a specific subscriber's terminal. Requests for such additional tests will be made on the basis of complaints received or other evidence indicating an unresolved controversy or significant noncompliance, and such tests will be limited to the particular matter in controversy. The County will endeavor to so arrange its requests for such

special tests as to minimize hardship or inconvenience to the franchisee or the subscribers. The County shall provide for such standards, tests and procedures as set forth in the franchise agreement and/or by executive regulation adopted by the County Executive under Method (2) of Section 2A-15 of this Code and after notice to franchisees.

8A-18. Administration.

The Montgomery County Executive or his designee shall have the responsibility for the administration and enforcement of this law and any franchise agreement. He shall have the following duties, powers and authority which he may delegate at his discretion:

(f) To adopt regulations, under Method (1) of Section 2A-15 of this Code, for the implementation of the intent of this Chapter.

8A-21. Lobby disclosure and conflict of interest.

(h) Reports.

(1) Each lobbyist required to register under this Section shall file a quarterly report itemizing compensation received and expenses incurred while retained as a lobbyist.

(2) Each applicant shall file a quarterly report, itemizing all expenses incurred for the purpose of lobbying and public relations for the County franchise. Expenses reported under Section (h)(1) do not have to be reported by the applicant.

(3) All reports shall be on forms specified by the County Attorney, and shall be filed at such time and in such detail as specified in regulations which shall be adopted by the County Executive under Method (1) of Section 2A-15 of this Code. The period to be covered by such reports shall begin on the effective date of this law and shall terminate six months following the date the franchise is awarded.

Sec. 12. Sections 10-3 and 10-11 of Chapter 10, title "Child Care" be and hereby are amended to read as follows:

10-3. Regulations and administration of Chapter.

The County Executive is authorized to adopt executive regulations under Method (2) Section 2A-15 of this Code, for the implementation of this Chapter, including the establishment of health and welfare standards for group day care centers. This Chapter shall be administered by the Director of the Department of Health acting under the supervision of the County Executive.

10-11. License fee.

The fees for licenses issued under this Article shall be paid to the Director and shall be of such an amount as the County Executive by regulation, adopted under Method (3) of Section 2A-15 of this Code, may set from time to time. The fees shall not exceed the cost of inspection and issuing the permits for the various establishments regulated by this Chapter. The permit fee so fixed shall be submitted with the application and is not refundable in whole or in part unless the application is withdrawn prior to the inspection of the premises by the Director or authorized agent of the Director. If the application is withdrawn prior to the inspection, the entire permit fee shall be refunded.

Sec. 13. Section 11-2(k) of Chapter 11, title "Consumer Protection" be and hereby is repealed and reenacted with amendments to read as follows:

11-2. Office of Consumer Affairs.

There is hereby created the Montgomery County Office of Consumer Affairs, hereinafter referred to as "Office." The County Executive shall appoint a single officer to be known as the Executive Director of the Office of Consumer Affairs, subject to the confirmation of the County Council. The office shall have the following duties, powers and authority:

(k) To adopt regulations, under Method (3) of Section 2A-15 of this Code, for the conduct of the activities of that office.

Sec. 14. Sections 11A-3(b)(2), 11A-5(e), 11A-7(c), 11A-9 and 11A-13 of Chapter 11A, title "Condominiums" be and hereby are amended to read as follows:

11A-3. Right of first refusal to purchase rental facilities.

(b) Notice required; exercise of right of first refusal.

(2) The County Executive may require the owner, by executive regulations adopted under Method (3) of Section 2A-15 of this Code, to make available to the County and its designated housing agency information regarding the characteristics and condition of the facility deemed relevant to the exercise of the right of first refusal, including but not limited to architectural and engineering plans and specifications and facility operating data. In addition, the County Executive by regulation adopted under Method (3) of Section 2A-15 of this Code may require the owner to provide access to the facility for purposes of inspection by the County or its designated housing agency provided, the County, its designated housing agency, and their

agents shall be responsible for any damage to the property caused by such inspection. The County Executive may provide by regulation that any information received by either the County or its designated housing agency, pursuant to this subsection, is confidential and not subject to public disclosure.

11A-5. Extended leases.

(e) The County Executive, by executive regulations adopted under Method (3) of Section 2A-15 of this Code, may provide for implementation of this Section, including promulgation and enforcement of recordation requirements for owners of condominium units subject to life tenancies under this Section and prohibitions against changes of business or leasing practices to circumvent the giving of extended tenancies under this Section.

11A-7. Consumer guide.

(c) The consumer guide shall be sufficient if it contains the following:

- (1) Plat.
- (2) Sample deed.
- (3) Estimated itemized closing costs.
- (4) Estimated itemized monthly housing costs, including principal, interest, taxes, condominium fee and utilities.
- (5) Statement of all warranties, including statutory implied warranties.
- (6) Name(s) of institutions offering long-term financing and terms, if the developer has obtained a commitment.
- (7) Other information, as required by executive regulations adopted by the County Executive under Method (3) of Section 2A-15 of this Code, to promote full and fair disclosure of the details of the transaction, the nature of condominium ownership and the characteristics of the particular condominium facility.

11A-9. Budgeted reserves.

During the period when the developer retains control of the Council of Unit Owners, the developer of a condominium shall budget and contribute annually to reserves. The contribution of the developer shall be in proportion to the number of condominium units owned by the developer, but in

no event shall the total annual contributions of all unit owners, including the developer, be less than an amount calculated to maintain the reserve fund at a level adequate for deferred maintenance, repairs and replacement of those common elements or major components of common elements that must be replaced on a periodic basis.

The County Executive shall by executive regulation adopt regulations under Method (3) of Section 2A-15 of this Code detailing requirements of the budgeted reserves to be incorporated in the consumer guide.

11A-13. Administration of Chapter.

The Office of Consumer Affairs shall be responsible for administration of this Chapter and the County Executive shall, from time to time, adopt under Method (2) of Section 2A-15 of this Code, written regulations necessary to put into effect and to administer the provisions of this Chapter.

Sec. 15. Sections 11B-18, 11B-20, 11B-23C, 11B-25, 11B-26(a), 11B-27 and 11B-39 of Chapter 11B, title "Contracts, procurement matters and public ethics" be and hereby are amended to read as follows:

11B-18. General review requirements.

(a) The County Executive shall establish, by written regulation adopted under Method (1) of Section 2A-15 of this Code, the general requirements and procedures for review of professional service contracts within County government.

(b) Included among the requirements and procedures to be established by the County Executive shall be the following:

(1) Procedures for review by the Contract Review Committee of all professional service contracts and contract modifications in excess of ten thousand dollars and such other contracts and contract modifications as deemed appropriate.

(2) Procedures for coordination with and concurrence by concerned departments, offices and agencies.

(3) Procedures for review of contract modifications where these will affect the scope of the original contract or where they will result in an increase in expenditures above a specified amount.

(4) Procedures for departmental contractor qualification and selection committees to review, evaluate and recommend contractors for

professional service contracts in excess of ten thousand dollars or such other contracts as deemed appropriate.

(5) Such other factors as the County Executive deems appropriate to carry out the purpose and intent of this Chapter, including a prohibition on dividing contracts in order to avoid the contract review process.

(c) Agreements between the Office of Architectural Services and the Civil Defense Preparedness Agency for professional architectural advisory services, to be furnished in kind and at no cost to the County, for the application of building design concepts to protect against the hazards of natural, man-made and nuclear disasters, are not subject to these procedures.

11B-20. Public announcement process.

(a) Procurement of professional services shall be announced in a manner consistent with written regulations adopted by the County Executive under Method (1) of Section 2A-15 of this Code, or by resolution of the County Council, as appropriate.

(b) The public announcement will also be mailed to those potential contractors who have been previously qualified and to local and State professional organizations or societies for dissemination to their members.

11B-23C. Procedures.

The Chief Administrative Officer shall structure the County's procedures for purchasing materials, supplies, equipment, and services, including construction services, to attempt to achieve, as a result, that a minimum of 10% of the total dollar value of such purchases are made directly or indirectly from minority businesses. These procedures may include provisions for a minority preference in competitive bidding requirements for contracts between seven thousand dollars (as adjusted by the County Executive) and five hundred thousand dollars to allow for selection of a minority bidder other than the lowest responsible bidder, provided the cost does not exceed an amount determined by the Executive in his discretion, and specified in the invitation for bids, up to 120% of the lowest responsible bid, and provided further that the invitation for bids for any contract where a minority preference is to be used shall state the intention to utilize minority preference procedures.

11B-25. Establishment of regulations.

(a) The County Executive shall adopt under Method (1) of Section 2A-15 of this Code, such regulations as shall be necessary to promote efficiency of operations and compliance with the provisions of this Chapter.

11B-26. Contract Review Committee; establishment; composition.

(a) The County Executive shall establish, by written regulation adopted under Method (1) of Section 2A-15 of this Code, a Contract Review Committee for the purpose of review and evaluation of the selection of contractors for professional services and such other responsibilities as specified elsewhere in this Chapter, or as may be assigned. The regulations shall provide for expeditious review and evaluation including specific periods of time for such review and evaluation. In addition, the Committee shall review all contracts where the award is to other than the lowest bidder when formal competitive bidding procedures are used.

11B-27. Departmental responsibilities.

(a) The County Executive shall establish by written regulation, adopted under Method (1) of Section 2A-15 of this Code, the responsibilities of and the procedures to be followed by the various departments, offices and agencies of County government engaged in contracting and procurement matters.

(b) Included among the responsibilities and procedures to be established by the County Executive shall be:

(1) Development of request for and evaluation of contractual proposals.

(2) Development of necessary plans and specifications.

(3) Procedures for coordination with and concurrence by concerned departments, offices and agencies.

(4) Fiscal and administrative controls.

(5) Legal review.

(6) Announcement of bids, proposals and contracts in a uniform and consistent manner.

(7) Such other factors as the County Executive deems appropriate to carry out the purpose and intent of this Chapter.

11B-39. Regulations.

The Contract Review Committee may adopt regulations under Method (1) of Section 2A-15 of this Code, which provide to the fullest extent informal, expeditious and fair resolutions of claims and appeals.

Sec. 16. Sections 13-1(a) and 13-7 of Chapter 13, title "Detention Centers and Rehabilitation Facilities" be and hereby are amended to read as follows:

13-1. Powers and duties generally of Director of Department of Correction and Rehabilitation.

(a) The Director of the Department of Correction and Rehabilitation, thereafter in this Chapter referred to as the Director, shall recommend to the County Executive who may adopt under Method (2) of Section 2A-15 of this Code, all regulations of the County which pertain to the administration and operation of the Department of Correction and Rehabilitation, not inconsistent with law, necessary to exercise the responsibilities and duties of the position.

13-7. Same - Same - Payment for work and program participation.

The Director of Finance is authorized to pay each inmate who is assigned to work at an essential job or to participate in a program specified by the Director at the rate of one dollar per day, or such higher rate as may be established in executive regulations adopted by the County Executive under Method (3) of Section 2A-15 of this Code, for the actual days worked or for the actual days of successful participation in a program. The Director or designee will maintain a list of essential inmate work positions and will specify the programs for which inmates will be paid. Such payment shall not be made for required housekeeping duties performed within an inmate's quarters or confinement area.

Sec. 17. Section 13A-4 and 13A-5 of Chapter 13A, title "Development Rights Fund" be and hereby are amended to read as follows:

13A-4. Authority of the Board.

The Board of Directors is hereby empowered to commit and authorize expenditure of all, or a portion, of the funds made available to it: (1) to establish a reserve fund to guarantee in whole, or in part, loans made by commercial lending institutions insofar as such loans are secured by development rights, and (2) to purchase and sell development rights

easements. It shall be the policy of the Board to facilitate the establishment of a private market for development rights and to serve as a financial resource available when private commercial resources are not readily available at prevailing market rates. The Board shall, after consulting with the Agricultural Preservation Advisory Board and after holding a public hearing, propose regulations to govern its operations. The regulations for the Board shall be adopted under Method (2) of Section 2A-15 of this Code by the County Executive. The regulations shall set forth eligibility requirements for loan guarantees and for sellers to and buyers from the fund of development rights. In addition to other requirements, the regulations shall provide that:

(a) The first priority for the use of its funds shall be to guarantee loans;

(b) Loan guarantees may not exceed 75% of the value of development rights. The Board may charge a fee for the loan guarantee;

(c) No loan guarantee may exceed five years, however, a single one year extension may be granted for good cause;

(d) Development rights which are purchased by the fund must be sold prior to the termination of the fund as provided in Section 13A-7 herein;

(e) The Board shall require evidence from the applicant that he has been unable to obtain a commercial loan using development rights as collateral before a loan guarantee may be approved. This requirement shall not apply to loan guarantees for existing loans;

(f) Development rights may be sold by the Board by any legally permissible means, including auction;

(g) The Board must determine the value of development rights for any negotiated purchase by obtaining two independent appraisals or some other reasonable means;

(h) Prior to purchasing development rights from an applicant, the Board shall require evidence from the applicant that he has been unable to sell development rights in the private market.

The Board shall be under no duty to act even if all requirements have been satisfied but may exercise its discretion and best judgment to fulfill the purpose of this Chapter. The Board shall report semi-annually to the

County Executive and the County Council on its financial activities.

13A-5. Eligibility requirements.

Before the fund can purchase development rights or make loan guarantees using development rights as collateral, it must be established to the satisfaction of the Board that the land to which the development rights attach is located within the rural density transfer zone. This eligibility requirement is in addition to any other requirements which may be established in the regulations proposed by the Board and adopted under Method (2) of Section 2A-15 of this Code.

Sec. 18. Section 15-12 of Chapter 15, title "Eating and Drinking Establishments" be and hereby is amended to read as follows:

15-12. Fees.

The fees for permits under this Article shall be of such an amount as the County Executive, by regulation adopted under Method (3) of Section 2A-15 of this Code, may set from time to time. The fees shall not exceed the cost of inspecting and issuing the permits for the various establishments regulated by this Chapter. The permit fee so fixed shall be submitted with the application and is not refundable in whole or in part unless the application is withdrawn prior to an inspection of the premises by the Director or his/her authorized agent. If the application is withdrawn prior to inspection, the entire permit fee shall be refunded.

The County Executive may waive all or part of the permit fee required for the following establishments which pay a license fee under some other licensing law of the County:

- (a) Hospitals, sanitariums, nursing homes and care homes.
- (b) Private educational institutions.
- (c) Child care homes.
- (d) Hotels, tourist homes, boardinghouses and rooming houses.

Sec. 19. Sections 17-2(a) and (b), 17-22, 17-25(a), 17-37(a) and 17-38(b) of Chapter 17, title "Electricity" be and hereby are amended to read as follows:

17-2. Regulations.

(a) The Director may recommend written rules and regulations for the administration of the provisions of this Chapter and may, at his discretion,

hold public hearings as part of this rule-making process. Such rules and regulations and amendments thereto shall not conflict with nor waive any provisions of this Chapter nor be less restrictive than its provisions and shall be adopted by the County Executive under Method (2) of Section 2A-15 of this Code.

(b) The Director shall hold public hearings, upon adequate public notice, with opportunity for full participation from members of the Board of Electrical Examiners and shall obtain the recommendations of the Board of Electrical Examiners prior to forwarding his recommendations for regulations setting forth the standards and requirements for all installations of electrical equipment within the County. Such regulations shall be based upon a designated edition of the National Electrical Code and local amendments thereto, including but not limited to those for the installation of fire alarm systems. Such regulations and amendments thereto shall be adopted by the County Executive under Method (2) of Section 2A-15 of this Code.

17-22. Same - Master electrician limited.

(a) Any person who desires to install, repair, maintain or erect electrical equipment as a master electrician limited, as defined in this Chapter, may at any time make application to the Director to be examined and the Director shall provide the applicant with the prescribed forms.

(b) An applicant may be licensed hereunder for a particular type of electrical installation or may be licensed for all types or as many types of limited electrical installations as defined herein and for which he shall be found qualified by the Board. He shall have been regularly and principally employed for four (4) years preceding application in the area of limitation, under the direction of a master electrician, or master electrician limited, where the limitation is in the same area as requested. The type of limited licenses shall be set forth in regulations adopted under Method (3) of Section 2A-15 of this Code by the County Executive upon recommendation of the Board. Particular license classifications shall include, without limiting, licenses for electrical connections and circuits to air conditioning, elevators, gasoline pumps, automatic heating furnaces whose principal operation is derived from fuel oil, gas, steam, solar panels, or coal, lighting, illuminated signs, and similar specialties, and electrical repair and

maintenance work, in plants, factories, apartment complexes and any public occupancy employing maintenance forces, fire alarm systems and electronic equipment, or major appliances, all employing the use of electrical current or connections. The conditions of the license shall appear plainly on the license.

(c) Those persons who are employed by a plant, factory, apartment, condominium, office building or other facility employing maintenance personnel are encouraged to obtain a master electrician's limited license for maintenance in order to be able to obtain permits for electrical maintenance work. In addition to the requirements in Section 17-22(a) and (b), the owner or agent for the building or buildings must certify that the applicant is a full-time employee and is covered by liability insurance in the amount established by Section 17-19(c).

17-25. Term of licenses; renewal.

(a) All licenses issued under this Chapter after the effective date of this legislation shall be valid for two years from the date of issuance and may be renewed upon application to the Director. Applicants for licenses and renewals thereof shall pay to the County a fee for a business license, master electrician's license, master electrician's limited license and journeyman electrician's license as provided for by regulations adopted under Method (3) of Section 2A-15 of this Code by the County Executive.

17-37. General requirements.

(a) It shall be the duty of the owner, agent, lessee, occupant, or any other person entitled to the beneficial use, rental or control of any building which is required under this Code to have a fire alarm system to provide, install and maintain therein a fire alarm system with sufficient alarm bells, striking stations or automatic detectors, of such type and character as contained in regulations adopted by the County Executive under Method (2) of Section 2A-15 of this Code.

17-38. Generally.

(b) The standards and requirements of this Chapter shall be based upon the currently designated edition of the National Electrical Code and amendments thereto as specified in regulations adopted by the County Executive under Method (2) of Section 2A-15 of this Code and are hereby declared to be

minimum standards and requirements. Any electrical equipment or installation which is equal or superior to such standards and requirements shall be deemed to be in compliance therewith.

Sec. 20. Sections 19-6, 19-8, 19-17 and 19-31 of Chapter 19, title "Erosion and Sediment Control" be and hereby are amended to read as follows:

19-6. Same - Fees.

The County Executive, by written regulations adopted under Method (3) of Section 2A-15 of this Code, may establish, increase or decrease permit and inspection fees and set nonrefundable fee schedules for filing, additional submissions, and permit renewals in an amount not to exceed the reasonable cost of administering and enforcing this Chapter.

19-8. Same - Expiration; renewal.

Every permit issued hereunder shall expire at the end of the period of time set out in the permit. The permittee shall fully perform and complete all of the work required to be done within one year after the date of issuance, unless specified otherwise by the Department for good cause shown. If the permittee shall be unable to complete the work within the specified time, he shall, within thirty days prior to expiration of the permit, present in writing to the Department a request for an extension of time, setting forth therein the reasons for the requested extension. If, in the discretion of the Director, such an extension is warranted, he may grant additional time for the completion of the work for an additional fee, such fee to be established by the County Executive by written regulation adopted under Method (3) of Section 2A-15 of this Code. Where the Director determines that the extension of time will require a substantial modification of the grading, erosion and sediment control plan, any extension of a permit shall be subject to approval of a revised sediment control plan by the District.

19-17. Regulations.

(a) The Director may recommend written regulations for the administration of the provisions of this Chapter and may, at his discretion, hold public hearings as part of this rule-making process, with opportunity for full participation from the County Soil Conservation District and shall obtain the recommendations from the District prior to forwarding his recommendations for regulations. Such regulations and amendments thereto shall not conflict

with nor waive any provisions of this Chapter nor be less restrictive than its provisions and shall become effective upon their adoption by the County Executive under Method (3) pursuant to Section 2A-15 of this Code.

(b) The Director shall hold hearings upon adequate public notice of no less than thirty days, with opportunity for full participation from the Soil Conservation District and shall obtain the recommendations from the Soil Conservation District prior to forwarding his recommendations for regulations for provisions set forth in subsection (c) of this Section. Such regulations shall not conflict with nor waive any provisions of this Chapter nor be less restrictive than regulations promulgated and in effect as requirements of the State Department of Natural Resources. Such regulations and amendments thereto shall become effective upon their adoption by the County Executive under Method (2) of Section 2A-15 of this Code.

(c) Regulations adopted under this Chapter shall establish criteria which shall not conflict with nor waive any provisions of this Chapter nor be less restrictive than criteria adopted for the same purposes by the Soil Conservation District. These regulations shall include but not be limited to the following provisions:

- (1) Maximum duration of exposure;
- (2) Critical slope protection;
- (3) On-site grading controls;
- (4) On-site drainage controls
- (5) Protection of specimen trees.

19-31. Regulations; interagency agreements.

The Director may recommend written regulations for the administration of the provisions of this Article, and shall hold public hearings as part of this rule-making process, with opportunity for full participation by the District and the Commission. Such regulations, and amendments thereto, shall not conflict with, nor waive, any of the provisions of this Chapter, nor be less restrictive than its provisions, and shall become effective upon their adoption by the County Executive under Method (2) of Section 2A-15 of this Code. Such regulations shall include the establishment of a fee schedule for monetary contributions to the County in lieu of the required on-site storm water management facility, and may also include design standards and other

criteria or procedures necessary to implement the provisions of this Article. The Executive, the District and the Board shall, within sixty days following the effective date of this Article, execute such agreements as may be necessary to implement its provisions, including the monitoring and review on a periodic basis, of the effect that the program has had on the watersheds of the County. These agreements shall become effective within thirty days of their effective date, unless disapproved by the County Council.

Sec. 21. Section 19A-5(j) of Chapter 19A, title "Ethics" be and hereby is amended to read as follows:

19A-5. Montgomery County Ethics Commission.

(j) The County Ethics Commission shall adopt under Method (2) of Section 2A-15 of this Code reasonable and necessary regulations for the implementation and administration of this Chapter.

Sec. 22. Sections 21-4B(e) of Chapter 21, title "Fire and Rescue Services" be and hereby is amended to read as follows:

21-4B. Fire and Rescue Commission.

(e) Duties, responsibilities and authority. The Commission, on behalf of the County, is hereby authorized to develop effective, efficient and equitable fire, rescue and emergency medical services County-wide, and to provide the policy and regulatory framework for all such fire, rescue and medical service operations. The Commission shall work closely with both the Director and the Fire Board. The Commission shall have the following functions in addition to those elsewhere assigned by law, or regulation adopted by the County Executive under Method (2) of Section 2A-15 of this Code:

(1) Advise the County Executive and the County Council on any matter relating to fire, rescue and emergency medical services.

(2) Adopt County-wide policies, standards, procedures, plans and programs applicable to all fire, rescue and emergency medical service operations;

(3) Adopt regulations under Method (2) of Section 2A-15 of this Code;

(4) Establish communications and dispatch procedures for emergency operations centers; and

(5) Establish guidelines for curriculum and programs of the Public Service Training Academy.

Sec. 23. Sections 22-13, 22-37 and 22-96(g) of Chapter 22, title "Fire Safety Code" be and hereby are amended to read as follows:

22-13. Rules and Regulations.

(a) The Director may recommend written regulations for the administration of the provisions of this Chapter including a schedule of fees and hold public hearings as part of the rule-making process. Such regulations and amendments thereto shall not conflict with nor waive any provisions of this Chapter nor be less restrictive than its provisions and shall become effective upon their adoption by the County Executive under Method (2) of Section 2A-15 of this Code. In the case of fees, the County Executive shall promptly forward to the County Council a copy of the new fee schedule for use in budgetary planning activities. Such fees shall be in accordance with formulas based upon criteria to include area or estimated cost of construction, or cost of inspection and processing or a minimal set fee per category, not to exceed the cost of administering and enforcing this Code.

(b) The Director shall hold public hearings, upon adequate public notice of not less than thirty days, prior to forwarding his recommendations for regulations setting forth the standards and requirements for controlling the hazards of fire and explosion from improper storage, handling or use of substances, materials or devices and for controlling the hazardous use of property.

22-37. Regulating fire extinguisher service.

The Director of the Department of Fire and Rescue Services shall exercise the following functions, powers and duties:

(1) To administer such regulations as may be determined necessary for the protection and preservation of life and property in controlling:

i. The registration of firms engaging in the business of servicing portable fire extinguishers;

ii. The registration of firms engaging in the business of hydrostatically testing U.S. Department of Transportation specification gas cylinders used for portable fire extinguishers;

iii. The examination of persons applying for a license to service portable fire extinguishers;

iv. The licensing of persons to service portable fire extinguishers;

v. The requirements for servicing of portable fire extinguishers.

(2) To evaluate the qualifications of firms or individuals for a certificate of registration to engage in the business of servicing portable fire extinguishers.

(3) To conduct examinations to ascertain the qualifications and fitness of applicants for a license to service portable fire extinguishers.

(4) To issue certificates of registration for those firms that qualify under these regulations to engage in the business of servicing portable fire extinguishers, and issue licenses, apprentice permits, and authority to perform hydrostatic testing to the qualified persons.

22-96. Smoke detectors.

(g) Permits and fees.

No smoke detector or alternative system shall be directly connected (permanently wired) to the electrical system of the structure unless an electrical permit shall have first been obtained from the Department of Environmental Protection or the municipal electrical permit authority having jurisdiction. The County Executive is hereby authorized to adopt, under Method (3) of Section 2A-15 of this Code, a fee schedule for the issuance of said permit which shall not exceed the cost of administration of this Section; further, the County Executive is authorized to waive, partially or wholly, the fee requirement at his discretion, or to issue multiple permits under the payments of a single fee.

Sec. 24. Sections 23A-6(a) and (b), and 23A-9(a)(4) of Chapter 23A, title "Group Residential Care Facilities" be and hereby are amended to read as follows and Sections 23A-6(c), (d) and (e) are renumbered as (b), (c) and (d):
23A-6. Regulations.

(a) The County Executive may adopt or amend written regulations under Method (2) of Section 2A-15 of this Code for this Chapter. Such regulations shall not conflict with nor waive any provisions of this Chapter, nor be less restrictive than its provisions or those found in Chapter 26 of this Code.

23A-9. Annual facility license; procedures; conditions; administration and enforcement.

(a) License procedures. The Director shall process any facility license application according to the following procedures:

(4) Applicants shall pay to Montgomery County, Maryland a fee to be established and revised, by executive regulation adopted under Method (3) of Section 2A-15 of this Code, from time to time by the County Executive not to exceed the costs of administering this Chapter.

Sec. 25. Section 24-9(j) of Chapter 25, title "Health and Sanitation", be and hereby is amended to read as follows:

24-9. Smoking prohibitions and restrictions.

(j) Regulations. The County Executive shall adopt reasonable and necessary regulations, under Method (2) of Section 2A-15 of this Code, for the implementation, administration and enforcement of this Chapter.

Sec. 26. Section 24A-4(h) of Chapter 24A, title "Historic Resources Preservation", be and hereby is amended to read as follows:

24A-4. Historic Preservation Commission - Generally.

(h) Regulations. The Commission may adopt, under Method (2) of Section 2A-15 of this Code, such regulations as it may be deemed necessary for the proper transaction of the business of the Commission.

* * *

Sec. 27. Section 25-18 of Chapter 25, title "Hospitals, Sanitariums, Nursing and Care Homes", be and hereby is amended to read as follows:

25-18. Fees.

(a) The annual license fees for all institutions subject to the provisions of this Article shall be established and may be revised from time to time by the County Executive by written regulations adopted under Method (3) of Section 2A-15 of this Code in an amount not to exceed the reasonable costs of administration and enforcement of this Chapter.

(b) No annual license shall be issued by the Department until payment of the prescribed license fee has been made to the Department of Finance by the institution requesting the license.

Sec. 28. Sections 25A-3, 25A-6(a), 25A-7(c) and (d), 25A-8(a) and 25A-10 of Chapter 25A, title "Housing, Moderately Priced", be and hereby are amended to read as follows:

25A-3. Definitions.

* * *

Moderate income: The phrase "moderate income" means levels of income which prohibit or severely limit the financial ability of persons to purchase or to rent housing in Montgomery County and which, therefore, based upon the experience in the housing market in Montgomery County, require that the type of moderately priced housing intended to be developed under the provisions of this Chapter be constructed.

Moderate income levels shall be established by written regulations which shall be adopted under Method (1) of Section 2A-15 of this Code and revised by the County Executive at such time as corresponds with the promulgation and revision of the executive regulations which establish the sales and rental prices for moderately priced dwelling units, as required by Section 25A-3 herein, or more frequently as deemed necessary by the County Executive.

In establishing the moderate income levels, the County Executive shall consider, but shall not be limited to a consideration of, the price established for the sale or rental of dwelling units developed pursuant to the provisions of the Chapter plus the term, interest rate and taxes applicable to the financing of such dwelling units, the estimated levels of income necessary to finance the acquisition of such dwelling units, the family size and number of dependents.

Moderately priced dwelling unit: The phrase "moderately priced dwelling unit" means a dwelling unit which meets the specifications of either paragraph (1) or (2) below:

(1) A dwelling unit which is constructed, sold or rented under a federal program to assist the construction of housing for families of low income, namely, (i) "conventional" or "turnkey" construction of dwelling units for the County Housing Opportunities Commission (hereinafter the "Commission") or construction in reliance upon an agreement by the Commission prior to commencement of construction to enter into a lease (commonly known as "turnkey leasing") or purchase contract for dwelling units after completion thereof, as authorized by the United States Housing Act of 1937 (codified as 12 U.S.C. 1401-1436), as amended, or (ii) provision of dwelling units under the Federal

rent supplement program authorized in Section 101 of the Housing and Urban Development Law (codified as 12 U.S.C. 1701s), as amended, or (iii) a dwelling unit which is constructed, sold or rented under a Federal program to assist the construction or occupancy of housing for families under the programs for homeownership, rental and/or cooperative housing authorized in Section 235 and 236 of the National Housing Act (codified as 12 U.S.C. 1715z and 1715z-1), as amended, or (iv) any other dwelling unit which is constructed, sold or rented under a Federal, State or local government program identified by the County Executive in written regulations adopted under Method (1) of Section 2A-15 of this Code, as designed to assist the construction or occupancy of housing for families of low or moderate income as defined under those programs.

(2) A dwelling unit which is sold or rented in accordance with the following:

a. Sales housing. The sales price of housing for sale for single-family dwelling units (including closing costs and brokerage fees) shall not exceed the applicable maximum sales price set forth herein or as established from time to time by the County Executive by written regulation, adopted under Method (1) of Section 2A-15 of this Code in accordance with the schedule of adjustments outlined below:

* * *

b. Rental housing. The rental price, including utilities and parking, for any dwelling unit described in subparagraph (2) of the definition of the term moderately priced dwelling unit shall not exceed the maximum rental price for such dwelling unit, as established by written regulation adopted by the County Executive, under Method (1) of Section 2A-15 of this Code, or as might be applicable under any system of rent controls in effect in the County.

The rental price of dwelling units rented pursuant to the provisions of this Chapter shall be established by written regulations adopted by the County Executive under Method (1) of Section 2A-15 of this Code, at the times and following the procedures set forth above for sales housing. Different rental prices shall be established for units where utility costs are borne by the tenant and not included in the rent.

The County Executive, in determining the rental price, shall take into consideration the current rent payable to lessors of dwelling units under programs identified by the Executive, pursuant to the definition of moderately priced dwelling unit. The County Executive, in determining the rental price, shall seek, in addition to the above guideline, such other information as from time to time may be required, such as rents currently being paid to lessors in the private market, and shall consult with the rental industry, employers and professional and citizens groups to obtain statistical information, including vacancy ratios in available rental housing in the private market and current general market and economic conditions, which may enable the County Executive to arrive at a current maximum rental price for moderately priced dwelling units. Consideration shall be given to cost of construction, capital and operating costs of such rental units and changes from time to time in the income levels of persons of low and moderate income and their ability to rent housing. The County Executive shall consider also the extent to which, consistent with the requirements of County codes and housing standards, the cost of rental housing can be reduced by the elimination of certain amenities.

25A-6. Sale or rental of moderately priced dwelling units.

(a) Sale or rental to general public.

(1) Subject to the provisions of this subsection, every moderately priced dwelling unit required by this Chapter shall be offered to the general public for sale or rental to a good faith purchaser or renter to be used for his or her own residence, with the exception of units offered for sale or rent with the assistance of, and subject to the conditions of, a subsidy under a Federal, State or local government program, identified in regulations adopted by the County Executive under Method (1) of Section 2A-15 of this Code, whose purpose is to provide housing for persons of low or moderate income.

* * *

(5) Every purchaser or renter of a moderately priced dwelling unit shall certify on a form prescribed by the Director of the Department of Housing and Community Development that he or she is acquiring or leasing said unit for his or her own, or family's, primary place of residence. Purchasers

of moderately priced dwelling units, except the Housing Opportunities Commission, shall not be permitted to lease moderately priced dwelling units to other parties unless sufficient cause can be found to waive this restriction to allow temporary rentals of such units based upon regulations, which may include maximum rental levels, to be adopted by the County Executive under Method (1) of Section 2A-15 of this Code. No applicant shall sell or lease any unit without first obtaining such certificates from purchaser or lessee. Copies of certificates to applicants from purchasers or lessees shall be furnished to the Department of Housing and Community Development and shall be maintained on file with the Department in such a manner as the Department shall provide. Prior to the sale by an applicant or by the Housing Opportunities Commission to any purchaser of any moderately priced dwelling unit constructed under this Chapter, the applicant or the Housing Opportunities Commission shall request a determination by the Department of Housing and Community Development from the certificates on file whether or not such proposed purchaser was a previous purchaser of a moderately priced dwelling unit. Previous purchasers shall not be permitted to purchase a second moderately priced dwelling unit unless there are no other first-time purchasers qualified to make such purchase; provided, that the Director of the Department of Housing and Community Development may waive this restriction for good cause.

25A-7. Control of subsequent sale or rental prices; foreclosure.

(c) Subsequent rental price. Moderately priced dwelling units constructed or offered for rent under this Chapter shall not be rented during a period of ten years from the date of original rental at a rental rate greater than that established by regulations adopted by the County Executive under Method (1) of Section 2A-15 of this Code. Whenever any moderately priced dwelling unit (as described in subparagraph (2) of the definition of that term and other than those offered by the Commission) is offered for rent during the aforesaid control period, it shall be offered exclusively for 60 days to the Housing Opportunities Commission and persons of moderate income, as defined by this Chapter and as determined eligible by the Department of Housing and Community Development, for use as his or her own residence. The Commission may assign its right to rent such units to persons of low or

moderate income who are eligible for assistance under any Federal, State or local program identified in regulations adopted by the County Executive under Method (1) of Section 2A-15 of this Code.

(d) County foreclosure regulations. Notwithstanding the foregoing provisions, the County Executive is authorized to adopt written regulations under Method (1) of Section 2A-15 of this Code dealing with foreclosure proceedings.

25A-8. Executive regulations; enforcement of Chapter.

(a) For the purpose of effectuating the requirements of this Chapter, the Department of Housing and Community Development shall maintain a list of all moderately priced dwelling units constructed, sold or rented pursuant to this Chapter, and the County Executive shall, from time to time, adopt such written regulations, under Method (1) of Section 2A-15 of this Code, as may be necessary to put into effect and to administer the provisions of this Chapter.

25A-10. Applicability.

The provisions of this Chapter, as amended, shall be applicable to all applicants and units developed by applicants, except that where a person qualified as an applicant prior to October 1, 1981, the following shall apply:

(a) The required percentage of moderately priced dwelling units specified in Section 25A-4(a)(1) shall be 15%;

(b) The price control period for sale and rental units shall be five years; and

(c) The provisions of Section 25A-6(a)(4) shall not be applicable.

An applicant may elect to waive the exception noted above in its entirety, according to such procedures and at such times as shall be specified in regulations adopted by the County Executive under Method (1) of Section 2A-15 of this Code. Any agreement required by Section 25A-4 shall be submitted or amended to conform with such election.

Sec. 28A. Sections 25B-3(c)(5), 25B-4(b) and 25B-8 of Chapter 25B, title "Housing Policy" of the Montgomery County Code 1972, as amended, be and hereby are amended to read as follows:

25B-3. Housing Policy implementation.

(c) The County Executive shall:

(5) Revise or recommend revisions, under Method (2) of Section 2A-15 of this Code, to regulations which add unnecessarily to the cost or delay of housing construction;

25B-4. Annual Housing Report.

(b) The County Executive shall also include in the Annual Housing Report a report of existing and approved assisted-family housing and other characteristics affecting the suitability of placing additional units of assisted-family housing by census tract or other enumeration area as designated by executive regulation adopted under Method (3) of Section 2A-15 of this Code; and the County Executive shall recommend to the County Council those geographic areas which should be designated as limited priority for receiving additional assisted-family housing in the forthcoming year.

25B-8. Administrative rules.

The County Executive and each relevant agency may adopt, after public hearing, rules of procedure or executive regulations adopted under Method (2) of Section 2A-15 of this Code, necessary to administer the provisions of this law and to implement the County's adopted Housing Policy.

Sec. 29. Sections 26-21(g) and 26-22 of Chapter 26, title "Housing Standards", be and hereby are amended to read as follows:

26-21. Smoke detectors.

(g) Permits and fees. No smoke detectors or alternative system shall be directly connected (permanently wired) to the electrical system of the structure unless an electrical permit shall have first been obtained from the Department of Environmental Protection or the municipal electrical permit authority having jurisdiction. The County Executive is hereby authorized to adopt executive regulations, under Method (3) of Section 2A-15 of this Code, to adopt a fee schedule for the issuance of said permit which shall not exceed the cost of administration of this Section; further, the County Executive is authorized to waive, partially or wholly, the fee requirement at his/her discretion, or to issue multiple permits under the payment of a single fee.

26-22. Executive regulations.

The County Executive is hereby authorized to adopt regulations, under Method (2) of Section 2A-15 of this Code, to implement and administer the provisions of this Chapter and to create standards for materials and equipment.

Sec. 30. Sections 27-6(a)(7), 27-6A(c), 27-26D(a), 27-29(g) and 27-42(j) of Chapter 27, title "Human Relations and Civil Liberties", be and hereby are amended to read as follows:

27-6. Duties generally.

(a) The Commission on Human Relations shall have the power and it shall be its duty:

(7) To adopt such regulations under Method (2) of Section 2A-15 of this Code, as may be necessary to carry out the purposes and provisions of this Article; to keep a record of its hearings, activities and minutes of all meetings. The records and minutes shall be on file with the Executive Secretary of the Commission and open to the public at reasonable business hours upon request.

27-6A. Definitions generally.

For the purposes of this Article the following words and phrases shall have the meaning ascribed to them:

(c) Reasonable accommodation. The effort necessary to make suitable a working, recreational or living environment for a handicapped person without danger to any person's health or safety or without undue hardship or expense to a business or other activity making such accommodation. In rental housing, the landlord may impose special conditions upon a handicapped tenant, the purpose of which is to protect the health and safety of the tenant and other residents of the facility. Such conditions and agreement thereto by the tenant shall be in writing. The Commission shall provide by regulation, adopted under Method (2) of Section 2A-15 of this Code, a procedure by which those persons covered by the provisions of this Article may apply to the Human Relations Commission for a declaratory ruling as to whether or not a proposed accommodation is reasonable. The procedure for such declaratory ruling shall include all due process safeguards. Any person aggrieved by such ruling shall have the right to appeal to the Circuit Court for Montgomery County under the provisions of Maryland Rule B. Such an appeal shall also include full appellate review by the appeal courts of Maryland. The Commission may also prescribe by regulation, adopted under Method (2) of Section 2A-15 of this Code, guidelines under which pre-employment or pre-rental inquiries may be made of handicapped individuals, the purpose of which is to determine the

measures necessary to protect the health and safety of handicapped persons and others. Any inquiry so permitted shall not be used as a basis for discriminatory practices made unlawful by this Article; provided, however, the results of such inquiries may form the basis for a determination of reasonable accommodation.

27-26D. Alternative service; Anti-Hate/Violence Fund.

(a) Any civil monetary liability to Montgomery County imposed pursuant to this Division, upon a child or an adult, may be paid in kind by the performance of alternative community service, as provided by the County Executive by regulation adopted under Method (3) of Section 2A-15 of this Code.

27-29. Powers and duties generally.

The Commission shall have the power and it shall be its duty:

(g) To adopt, under Method (2) of Section 2A-15 of this Code, such regulations as may be necessary to carry out the purposes of this Article; to keep a record of its activities and minutes of all meetings; such records and minutes shall be on file and shall be open to the public at reasonable business hours upon request.

27-42. Powers and duties generally of Committee.

To accomplish the purposes for which the Community Action Agency is established, the Community Action Committee shall have the power to:

(j) Adopt, amend and repeal by-laws, and adopt regulations under Method (2) of Section 2A-15 of this Code governing the manner in which its activities may be conducted and the powers vested in it may be exercised;

Sec. 31. Sections 27A-4 and 27A-5(e) of Chapter 27A, title "Individual Water Supply and Sewage Disposal Systems", be and hereby are repealed and reenacted with amendments to read as follows:

27A-4. Regulations.

(a) The County Executive may adopt, under Method (2) of Section 2A-15 of this Code, written regulations for this Chapter.

(b) Following consultation with the Washington Suburban Sanitary Commission, the Montgomery County Planning Board and other concerned public agencies, the Director shall recommend regulations for the administration and enforcement of the provisions of this Chapter. The regulations shall be adopted under Method (3) of Section 2A-15 of this Code and shall include the

standards and requirements governing such things as the location, design, construction, maintenance, repair and operation of individual water supply systems; the pre-drilling of wells; the location, design, construction, maintenance, operation and scavenging of individual sewage disposal systems; the abandonment of wells; the protection of percolation test holes; and field and laboratory tests appurtenant to the foregoing.

27A-5. Permits.

(e) The County Executive shall adopt a schedule of fees, by executive regulation adopted under Method (3) of Section 2A-15 of this Code, which shall apply to the issuance of permits required hereunder; to other services such as special inspections, field testing, plans review, laboratory analyses; and to the issuance of permits for the collection, transport and disposal of solid and liquid wastes as required hereunder.

Sec. 32. Sections 29-10(a), 29-19, 29-28A(b)(3), and 29-49(a) of Chapter 29, title "Landlord-Tenant Relations", be and hereby are amended to read as follows:

29-10. Powers and duties generally.

In addition to any other power, duty or responsibility provided in this Chapter, the Commission shall have the following powers:

(a) The Commission may adopt regulations under Method (2) of Section 2A-15 of this Code, including provisions for notification under this Chapter, as it deems necessary to implement the provisions of this Chapter.

29-19. Fees.

An annual license fee per dwelling unit shall be established by the County Executive by written regulation, adopted under Method (3) of Section 2A-15 of this Code, in an amount sufficient to pay the costs incidental to the administration of this Chapter and to make this Chapter self-sustaining; provided, that no part of this fee shall be used for any costs of administering or providing financial assistance in connection with Section 29-28A of this Chapter relating to the transportation and storage of evicted tenants' chattels.

29-28A. Eviction - Removal, transportation and storage of evicted tenants' chattels.

(b) Transportation and storage of chattels at County's expense.

(3) The County Executive is authorized to provide, by written regulation adopted under Method (3) of Section 2A-15 of this Code, for financial assistance to tenants without sufficient financial means to reclaim their chattels from storage under the provisions of this subsection. The funds for such financial assistance shall be appropriated to the Office of Landlord-Tenant Affairs and shall be made available by that Office in accordance with the procedures established by written regulation of the County Executive.

29-49. Administration, enforcement and penalties.

(a) The County Executive is authorized to adopt, under Method (2) of Section 2A-15 of this Code, such regulations as may be necessary to administer this Article properly.

Sec. 33. Section 29A-5(b)(9) of Chapter 29A, title "Legislative Oversight", be and hereby is amended to read as follows:

29A-5. Same - Responsibilities, powers and duties.

(b) Powers and duties. In addition to any other power, duty or responsibility provided in this Chapter, the Office shall have the following powers and duties:

(9) Develop uniform review and evaluation procedures, guidelines and regulations for the conduct and explanation of audits, surveys and investigations under this Chapter. Regulations that may be issued pursuant to this Chapter shall be adopted under Method (2) of Section 2A-15 of this Code.

Sec. 34. Sections 30-2, 30-5, 30-8, 30-11 and 30-12 of Chapter 30, title "Licensing and Regulations Generally", be and hereby are amended to read as follows:

30-2. Picnics, dances, soirees and other entertainment - Authority to regulate, etc.

The fees for licenses issued under this Chapter shall be of such an amount as the County Executive by regulation, adopted under Method (3) of Section 2A-15 of this Code, may set from time to time and shall not exceed the cost of administering this Chapter. The permit fee so fixed shall be submitted with the application and is not refundable in whole or in part. The County Executive is authorized to adopt such regulations, under Method (3) of

Section 2A-15 of this Code, in connection with such permit, license and fee, as are necessary to protect the public health, safety and welfare.

30-5. Public amusements, clubhouses, sanitariums, hospitals, etc. - Generally.

(a) The Council is hereby empowered to prescribe by law for the licensing and regulation within the limits of the County any place of public amusement or recreation, pleasure parks, picnic grounds, clubhouses, theatrical exhibitions, baseball grounds, bowling alleys, billiard halls or poolrooms, camp-meeting grounds, graveyards, sanitariums, hospitals, homes for the aged, private educational institutions, orphan asylums, homes for children and convalescent homes, signs or signboards, roadside stands or establishments; and in order to safeguard the public health, safety, morals and welfare, to pass regulations for the purpose of carrying out the powers herein granted or to authorize the County Executive to issue regulations to implement any law; provided, that such regulations shall contain proper standards for the exercise of the discretion conferred herein and shall operate uniformly; provided further, that the power of the Council to license, regulate or limit clubhouses shall not apply to the clubhouses of country clubs which were in existence and operation on January 1, 1927 and which on that date had a public or private list of fifty or more bona fide members paying dues and which on that date maintained on the club premises at least two of the following athletic facilities for their membership:

(1) A golf course of nine holes or more;

(2) Two or more tennis courts; or

(3) A swimming pool not less than forty feet in length and twenty feet in width.

(b) Any regulation adopted under this Section shall be adopted under Method (2) of Section 2A-15 of this Code.

30-8. Same - Regulations and licensing generally.

(a) The Council is hereby authorized to provide by law for the regulation and licensing of pawnbrokers and their activities, as it shall deem necessary to promote the public health, safety, morals and welfare of the community.

(b) Any regulation adopted under this Section shall be adopted under Method (3) of Section 2A-15 of this Code.

30-11. License fees generally.

The Council shall fix and enforce a uniform schedule of fees for licensing any class of business or enterprise as it may deem necessary, or the County Executive by regulation, adopted under Method (3) of Section 2A-15 of this Code, may establish such fees, not to exceed the reasonable costs of licensing and enforcement. All fees so determined shall be collected and paid over to the Director of Finance for the use of the County.

30-12. Alcoholic beverages - Consumption on public property.

The County Executive is hereby authorized to adopt regulations, under Method (3) of Section 2A-15 of this Code, governing the consumption of alcoholic beverages on "public property" as that phrase is defined in Article 2B, Section 210 of the Annotated Code of Maryland.

Sec. 35. Sections 30B-3, 30B-10, 30B-13 and 30B-15 of Chapter 30B, title "Massage Establishments and Massage Technicians", be and hereby are amended to read as follows:

30B-3. Administration; fees; regulations.

(a) The County Executive is hereby authorized to adopt regulations for the implementation of this Chapter under Method (3) of Section 2A-15 of this Code; specifically, he or she may authorize or require extensive background reviews for all applicants for licensure or registration under this Chapter, require from the applicant such background information as may be necessary to determine the fitness of the applicant for a license or registration, require applicants strictly to comply with all County and State health requirements as a condition subsequent to the issuance of a license or registration and may require such training programs for massage technicians as he or she deems necessary or reasonable.

(b) The County Executive, by executive regulation adopted under Method (3) of Section 2A-15 of this Code, is hereby authorized to adopt from time to time a schedule of fees, not to exceed the reasonable costs of administration of this Chapter.

(c) Exemptions.

(1) The County Executive may, by written regulation adopted under Method (3) of Section 2A-15 of this Code, specifically (by address) exempt any establishment from the requirements hereof if he or she finds:

a. That such establishment (or the users thereof) reasonably requires the administration of massages pursuant to a bona fide professional discipline for which State licensure is being sought.

b. That such establishment (or the users thereof) reasonably requires the administration of massages pursuant to a bona fide athletic or educational event or function.

Provided, however, that no exemption shall issue which is likely to contravene the purposes of this law.

(2) The County Executive may, by written regulation adopted under Method (3) of Section 2A-15 of this Code, specifically (by name) exempt any person from the requirements hereof if he or she finds:

a. That such person is reasonably required to administer massages pursuant to a professional discipline for which State licensure is being sought.

b. That such person is reasonably required to administer massages pursuant to a bona fide athletic or educational event or function.

Provided, however, that no exemption shall issue which is likely to contravene the purposes of this law.

30B-10. Application, fees and requirements.

Each application for massage establishment license shall be upon a form provided by the Director and accompanied by such licensure fees as are adopted by the County Executive in an executive regulation adopted under Method (3) of Section 2A-15 of this Code. Such forms shall contain all information as set forth in executive regulations adopted hereunder; these regulations may impose different requirements depending on whether the applicant is a person, partnership or corporation, and require reapplication upon any change in ownership.

30B-13. Minimum standards for massage establishments.

Massages must be administered either on the massage establishment's premises, or in the private residence of the patron. Where massages are

administered on the massage establishment's premises, it shall meet the minimum standards as set forth in the executive regulations adopted under Method (2) of Section 2A-15 of this Code. Where massages are to be administered off the premises, the office address of the massage establishment shall be the premises for which the license is granted.

30B-15. Application, fee and requirements.

Each application for a massage technician's registration shall be upon a form provided by the Director, and accompanied by such registration fees as are adopted by the County Executive in an executive regulation adopted under Method (3) of Section 2A-15 of this Code. Such form shall contain all information as set forth in the executive regulation adopted hereunder. No registration shall issue to a partnership, corporation, etc. or other than a named individual.

Sec. 36. Sections 31-2, 31-5(b), 31-6(a), 31-9(b), 31-10, 31-21(b), 31-23, 31-26, 31-29(b), 31-30(a), 31-31(b), 31-33(a), 31-46(b), 31-48(b)(g)(h), 31-51(a)(b), 31-52(e), 31-57(a), 31-58 and 31-62(c), of Chapter 31, title "Motor Vehicles and Traffic", be and hereby are amended to read as follows:

31-2. Authority of County Executive to erect traffic signs.

Whenever, in the judgment of the County Executive, it is necessary for the safety or control of vehicular or pedestrian traffic, he is authorized to provide, by executive order, for the erection of "stop," "speed limit" and other traffic control signs and devices on public streets, highways or other areas in the County; provided, that no such sign or device shall be erected on State highways without the approval of the State Highway Administration; and provided, that no such sign or device shall be erected at the cost of the County government in any incorporated town or special taxing area unless the Council has by resolution consented to the payment of such costs; and provided, that if the private owner of any land used by the general public shall cause to have erected "stop," "speed limit" or other traffic control signs or devices upon streets, highways and other areas within said private property said signs shall conform to the most recent edition of the "Manual on Uniform Traffic Control Devices for Streets and Highways" with regard to design, color, size and placement. The County Executive is authorized to

approve by executive order said traffic control signs and devices, which shall then have the same effect as those public traffic control signs and devices erected by the direction of the County Executive; provided, that all such signs and devices on private property shall be constructed, erected and maintained at the cost of the owner of said land.

31-5. Driving over curbs, sidewalks or drainage structures.

(b) Bicycles which are not motorized and special vehicles used by handicapped persons may be operated upon sidewalk areas and appurtenant drainage structures designed for pedestrian use except where, in the judgment of the County Executive, it is necessary for the safety or control of vehicular and pedestrian traffic to prohibit riding of such vehicles. Whenever any person is riding upon a sidewalk, such person shall give an audible signal and yield the right-of-way to any pedestrian. The County Executive may, by regulation adopted under Method (3) of Section 2A-15 of this Code, define "special vehicle" and "handicapped"; establish licensing requirements; and establish hours during which special vehicles may be operated upon sidewalk areas.

31-6. Snow and ice emergency traffic control.

(a) The County Executive is hereby authorized from time to time to designate, by executive order, important streets and highways of the County as snow emergency routes, which shall be marked by snow emergency route signs.

31-9. Impounding illegally parked vehicles, impeding traffic, etc.

(b) In any case involving the impoundment of a vehicle pursuant to this Section, an administrative cost not to exceed twenty-five dollars or such lesser amount as established from time to time by the County Executive by executive regulation adopted under Method (3) of Section 2A-15 of this Code, shall be charged to the owner of the vehicle in addition to all fines and penalties assessed pursuant to any violation of this Chapter plus any towing or storage charges incurred. All such fines, penalties, costs and charges shall be paid to the County or its agent before the owner may reclaim or secure the release of the vehicle.

31-10. Authority of County Executive to erect parking signs.

Whenever, in the judgment of the County Executive, it is necessary for the safety or control of vehicular traffic and parking or for pedestrian

safety, he is authorized to provide by executive order for the erection of "no stopping," "no standing," "no parking," and other parking control signs and devices on public streets, highways or other areas in the County; provided, that no such sign or device shall be erected on State highways without the approval of the State Highway Administration; and provided, that no such sign or device shall be erected at the cost of the County government in any incorporated town or special taxing area unless the Council has by resolution consented to the payment of such costs; and provided, that if the private owner of any land used by the general public shall cause to have erected "no stopping," "no standing," "no parking" or other parking control signs or devices upon streets, highways, and other areas within said private property, said signs shall conform to the most recent edition of the "Manual on Uniform Traffic Control Devices for Streets and Highways" with regard to design, color, size and placement. The County Executive is authorized to approve by executive order said parking control signs and devices which shall then have the same effect as those public parking control signs and devices erected by the direction of the County Executive; provided, that all such signs and devices on private property shall be constructed, erected and maintained at the cost of the owner of the land.

31-21. Impounding illegally parked vehicles.

(b) In any case involving the impoundment of a vehicle pursuant to this Section, an administrative cost not to exceed twenty-five dollars or such lesser amount as established from time to time by the County Executive, by executive regulation adopted under Method (3) of Section 2A-15 of this Code, shall be charged to the owner of the vehicle in addition to all outstanding fines and penalties assessed pursuant to violations of this Article plus any towing or storage charges incurred.

31-23. Authority of County Executive or his designee to regulate by signs.

(a) The County Executive or his designee is hereby authorized, by executive order in the form of traffic orders, to regulate parking of vehicles on County property by the erection of official signs conforming to the regulations regarding signs posted on public streets and highways, and

conforming in design, color, size and placement to the standards established in the most recent edition of the "Manual on Uniform Traffic Control Devices for Streets and Highways."

(b) All parking signs erected on any privately owned parking lot within the County shall conform to the regulations regarding signs posted on public streets, highways or other areas in the County, and conform in design, color, size and placement to the standards established in the most recent edition of the "Manual on Uniform Traffic Control Devices for Streets and Highways." The County Executive or his designee may provide, by executive order in the form of traffic orders, for the erection of official signs regulating parking on any privately owned parking facility within the County, which parking facility is open to and used by members of the general public for parking in connection with retail commercial establishments, or other businesses to which the parking facility is appurtenant. Any traffic order issued under this Section may require that the owner, tenant or employees of retail or commercial establishments furnish evidence necessary for the enforcement of such order.

31-26. Parking regulations - Public parking facilities.

(a) Except temporarily for the purpose of and while actually engaged in loading or unloading passengers or for emergency repairs when the vehicle cannot be driven, no person shall park any vehicle on a public parking facility:

* * *

(6) For a period longer than twenty-four hours, except when otherwise authorized by executive order.

* * *

31-29. Uses prohibited.

(b) Notwithstanding the provisions of subsection (a) above, the County Executive shall establish, by regulation adopted under Method (3) of Section 2A-15 of this Code, procedures for the issuance of written permits for the use of County owned or leased and operated parking facilities for storage and off-street parking purposes under the following conditions:

(1) Storage or parking restricted to areas of such facilities as directed by the Department of Transportation.

(2) Vehicle operation and parking within such facilities fully in accordance with County regulations including the observance of posted regulations and appropriate parking meter fees.

(3) The term of such permits not to exceed one year and providing not less than thirty days' notice of termination or suspension upon a finding that such action is necessary to carry out the purposes of the public parking district provisions of this Code or shorter notice upon occasion of emergency repairs, demolition or other public exigency.

(4) Establishment of a permit fee schedule sufficient, when considered with the parking meter fee, to cover the operating cost and amortized capital costs of the space involved.

31-30. Snow and ice emergency.

(a) The County Executive is hereby authorized from time to time to designate, by executive order, important public parking facilities of the County, or areas thereof, as snow emergency lots which shall be marked by snow emergency lot signs.

31-31. Impounding illegally parked vehicles.

(b) In any case involving the impoundment of a vehicle pursuant to this Section, an administrative cost not to exceed twenty-five dollars, or such lesser amount as established from time to time by the County Executive by executive regulation adopted under Method (3) of Section 2A-15 of this Code, shall be charged to the owner of the vehicle in addition to all outstanding fines and penalties assessed pursuant to violations of this Article plus any towing or storage charges incurred.

31-33. Authority of County Executive, establish fees, time limits, etc.

(a) Parking meters.

(1) The County Executive is hereby authorized to provide by executive order for the installation, maintenance and operation of parking meters along, and limiting the time motor vehicles may park on, the streets, highways and alleys located throughout the County and on public parking facilities acquired by or leased to and operated by the County, by use of parking meters or otherwise; and,

(2) The County Executive may adopt regulations under Method (3) of Section 2A-15 of this Code to prescribe parking meter or other fees for parking on such parking facilities, streets, highways, alleys.

(3) After the adoption of such regulations, the County may purchase, install, maintain and operate any such parking meters on all streets, highways, alleys and public parking facilities in accordance with the executive order issued under paragraph (1) of this subsection; provided that the location thereof is approved by the County Executive.

31-46. Impounding illegally parked vehicles.

(b) In any case involving the impoundment of a vehicle pursuant to this Section, an administrative cost not to exceed twenty-five dollars, or as shall be established from time to time by the County Executive by executive regulation adopted under Method (3) of Section 2A-15 of this Code, shall be charged to the owner of the vehicle in addition to all outstanding fines and penalties assessed pursuant to violations of this Article plus any towing and storage charges incurred as a result of impoundment. All such fines, penalties, costs and charges shall be paid to the County or its agent before the owner or operator may reclaim or secure the release of the vehicle.

31-48. Parking permit areas.

(b) The County Executive is hereby authorized to designate, by executive order, roads, streets and other areas within the County in which the parking of vehicles may be restricted, in whole or in part, during certain specified times, to holders of valid parking permits issued pursuant to this Section. The County Executive shall consider the institution of a parking permit system upon petition by the residents of a given area. The authority granted herein shall be in addition to, and may be exercised in conjunction with, any other authority the County Executive may have to regulate the times and conditions of motor vehicle parking.

(g) The County Executive is authorized to establish written regulations adopted under Method (2) of Section 2A-15 of this Code to implement the provisions of this Section.

(h) The County Executive is authorized to establish, by written regulation adopted under Method (3) of Section 2A-15 of this Code, a parking permit fee for permits issued pursuant to this Section in an amount sufficient to pay the cost incidental to the issuance of permits authorized by this Section.

31-51. Authority of County Executive to administer and enforce Chapter, establish and collect fines.

Pursuant to the provisions of State law, the County Executive is hereby authorized and empowered:

(a) To establish by written regulation adopted under Method (3) of Section 2A-15 of this Code, after review by the District Court of Maryland for Montgomery County, a schedule of fines or other penalties for violations of the provisions or regulations of this Chapter, such fines and penalties not to exceed that which may be imposed for a Class A violation as set forth in Section 1-19 of Chapter 1 of the County Code.

(b) To adopt regulations, under Method (3) of Section 2A-15 of this Code, as he may deem necessary or proper for the collection by the Department of Finance of the County of all such fines, penalties, costs and other charges imposed by this Chapter and to define any term used in connection with the collection of said fines, penalties, costs and other charges.

31-52. Duty and responsibility of the Department of Finance.

(e) The Director of Finance may, in accordance with the procedures prescribed by the State Motor Vehicle Administration and State law, give or cause to be given notice to said administration of all vehicles registered by the State and the subject of any outstanding and past due parking violation of this Code and request that the administration refuse registration or transfer of registration of the subject vehicle, until notified by the County that said violation has been satisfied.

In such cases, the Director of Finance may impose an additional cost of ten dollars, or as may be otherwise established from time to time by the County Executive by executive regulation adopted under Method (3) of Section 2A-15 of this Code, for each registration withheld; and the owner of the vehicle shall be subject to payment of such costs, and all other fines, penalties and charges before notice is given to the administration that the subject violation has been satisfied and the registration is released.

31-57. Failure to pay or comply; penalty in addition to fine.

(a) In the event said owner or operator fails to comply with the preceding Sections and the instructions provided on a notice of violation within the period prescribed by this Article, the fine for such violation shall be increased by an additional penalty not to exceed ten dollars, or as shall otherwise be established from time to time by written regulation of the

County Executive adopted under Method (3) of Section 2A-15 of this Code.

31-58. Dishonored check charges.

Whenever any check or draft tendered to the County in payment of any fine, penalty, cost or other charge as provided in this Chapter is dishonored by a bank or otherwise returned as uncollectible, a charge of ten dollars, or as may be otherwise established from time to time by the County Executive by executive regulation adopted under Method (3) of Section 2A-15 of this Code, may be imposed and added to the amount due in order to defray the cost of its collection. In such cases, the County may require that the total amount due be paid in the form of a certified check or money order.

31-62. Impounding or immobilizing vehicles after enumerated violations generally.

(c) In any case involving the impoundment or immobilization of a vehicle pursuant to this Section, an administrative cost not to exceed twenty-five dollars, or such lesser amount as established from time to time by the County Executive by executive regulation adopted under Method (3) of Section 2A-15 of this Code, shall be charged to the owner or operator of the vehicle in addition to all outstanding fines and penalties assessed pursuant to violations of this Chapter plus any towing and storage costs incurred. All such fines, penalties, cost and charges shall be paid to the County before the owner may reclaim or secure the release of the vehicle.

Sec. 37. Sections 31A-3(a), 31A-4(b) and 31A-8 of Chapter 31A, title "Motor Vehicle Repair and Towing Registration" be and hereby are amended to read as follows:

31A-3. Application fee.

(a) Any person, firm or corporation desiring to be engaged in business to repair, maintain or tow motor vehicles or install, repair or maintain motor vehicle equipment in the County shall register on the form provided by the County. Each application filed shall be accompanied by an application fee in the amount established by the County Executive by written regulation adopted under Method (3) of Section 2A-15 of this Code. The County Executive shall establish a sliding scale for such fees based on the number of employees engaged in repair work and with incentive to participate in voluntary certification through the National Institute for Automotive Service

Excellence. This provision shall not be construed to require the registration of employees.

31A-4. Certificate - Issuance; term; renewal; display.

(b) Registration certificates issued pursuant to this Chapter shall be valid for an initial period of one year from date of issuance; renewal certificates shall be valid for a period of three years. Applicants for renewal shall make application therefor at least thirty days prior to the expiration of their registration and pay such fee as is established by the County Executive by written regulation adopted under Method (3) of Section 2A-15 of this Code.

31A-8. Adoption of additional regulations.

The County Executive is hereby authorized to adopt, under Method (2) of Section 2A-15 of this Code, written regulations necessary for the implementation of the provisions of this Chapter.

Sec. 38. Sections 31B-3(d) and (e), 31B-10, 31B-12 and 31B-13 of Chapter 31B, title "Noise Control", be and hereby are amended to read as follows:

31B-3. Administration of Chapter

(d) Within six months after the effective date of this Chapter, the County Executive, with the advice and assistance of the Director, the Noise Control Advisory Board and other appropriate governmental agencies, shall establish in writing the following:

(1) Regulations to be used in measuring noise levels set forth in this Chapter.

(2) Such other noise control regulations and standards as the County Executive, with the advice and assistance of the Director and the Noise Control Advisory Board, may deem necessary and proper to accomplish the purposes and intent of this Chapter including when appropriate, rules, regulations or standards adopted by the State or Federal government as well as regulations or standards revising the noise limits set forth in this Chapter, if such revisions are deemed necessary.

(3) Any such regulation or standard shall be established by the County Executive, by executive regulation adopted under Method (3) of Section 2A-15 of this Code, only after the County Executive or his designee, after

reasonable notice to the public, shall have conducted a public hearing, at which hearing all interested persons shall be given an opportunity to testify and to submit alternative proposals for consideration. In no case shall such regulation or standard become effective prior to October 1, 1976.

(e) (1) Within six months after the effective date of this Chapter, the County Executive, with the advice and assistance of the Director and the Noise Control Advisory Board, shall propose regulations, including standards, for the control of noise due to construction, repair or demolition of structures or facilities within eight hundred feet of occupied residential uses or within four hundred feet of occupied commercial uses.

(2) Any regulation adopted under this subsection shall be adopted under Method (2) of Section 2A-15 of this Code.

31B-10. Noise sensitive areas.

Whenever the protection of the public health, safety and welfare so require, the County Executive, with the advice of the Director and the Noise Control Advisory Board, may designate, in executive regulations adopted under Method (2) of Section 2A-15 of this Code, any geographical area of the County as a noise sensitive area in which certain noise producing activities may be prohibited effective October 1, 1976. Such designation shall include a description of the subject area by reference to named streets, the reasons for determination as a noise sensitive area and a list of those activities which, if undertaken in such area, would constitute unnecessary noise. Such designation may be limited to specified times or days of the week. In cases where the limitations imposed by executive regulation, adopted under authority granted herein, are more stringent than those prescribed by restrictions within this Chapter, such regulations shall control within such noise sensitive areas.

31B-12. Temporary exemptions.

The Director is hereby authorized to grant a temporary exemption from the maximum permissible sound levels established by this Chapter if such temporary exemption would be in the public interest. An application for a temporary exemption shall be accompanied by a fee determined by written regulation of the County Executive, adopted under Method (3) of Section 2A-15 of this Code, in an amount sufficient to defray the administrative costs of

processing the application. Upon receipt of an application for a temporary exemption, the Director shall give public notice of the application and the fact that any adversely affected party may request a public hearing on the application. A temporary exemption must be in writing, signed by the Director or his appointed representative and must set forth the name of the party to whom the exemption is granted, the description and location of the property for which the exemption is authorized, the maximum sound level permitted and the period of time during which the exemption shall be effective and any other conditions or qualifications deemed necessary for the protection of the public. A temporary exemption shall be granted only for a reasonable period of time in view of all the facts and circumstances. A temporary exemption shall not be renewable and shall not be granted more than three times in any one calendar year with respect to a given property and location. In no case shall the holder of a temporary exemption be authorized to exceed the maximum permissible sound levels established by this Chapter by more than 25 dB(A).

31B-13. Special exemptions.

In addition to temporary exemptions provided for in Section 31B-12 of this Chapter, the Director is hereby authorized to grant a special exemption from compliance with any or all of the requirements of this Chapter in the event of hardship or if such exemption would otherwise be in the public interest. An application for a special exemption shall be accompanied by a fee determined by written regulation of the County Executive, adopted under Method (3) of Section 2A-15 of this Code, in an amount sufficient to defray the administrative costs of processing the application. Upon receipt of an application for a special exemption, the Director shall give public notice of the application and the fact that any adversely affected party may request a public hearing on the application.

Sec. 39. Sections 33-3(b), 33-7(b), 33-9(a), 33-12(b), 33-13, 33-13A(d), 33-19(b), 33-47(b), 33-77 and 33-86(g) and (j) of Chapter 33, title "Personnel", be and hereby are amended to read as follows:

33-3. Continuation and administration of Merit System.

(b) The Merit System shall be administered by the Chief Administrative Officer, under the direction of the County Executive, and shall be governed by and subject to the provisions of the Charter for Montgomery County, Maryland,

1978, as amended, provisions of this Chapter, and the personnel regulations adopted by the County Executive under Method (1) of Section 2A-15 of this Code.

33-7. County Executive and Merit System Protection Board responsibilities.

(b) Personnel regulations. The County Executive shall adopt personnel regulations under Method (1) of Section 2A-15 of this Code.

The personnel regulations shall provide the framework for:

- (1) The classification of all Merit System positions in the executive and legislative branches;
- (2) Minimum qualifications for Merit System positions, methods of determining qualifications and methods of selection for any positions;
- (3) Probationary periods, promotions, transfers;
- (4) Causes for removal from any Merit System position and methods of removal, including demotions, furloughs and reduction of staff;
- (5) Annual, sick and other leave;
- (6) Prohibitions against political activity;
- (7) Maintenance of personnel records; and
- (8) Similar personnel matters as may be provided by law.

33-9. Equal employment opportunity and affirmative action.

(a) Policy. The County's policy shall be to take all personnel actions on the basis of merit and fitness without regard to political affiliation or non-merit factors, and without regard to other factors as may be provided for in Chapter 27 "Human Relations and Civil Liberties" such as sex, marital status, race, religion, national origin, age or handicap. The Chief Administrative Officer shall be responsible for initiating, developing and maintaining such an equal employment opportunity and affirmative action program as necessary to insure all persons an equal opportunity to enter and progress in the County's service on the basis of open competition and demonstrated ability. The County Executive is authorized to issue such regulations, adopted under Method (1) of Section 2A-15 of this Code, as necessary to implement this policy. Such regulations shall provide that an employee whose personal religious beliefs require the abstention from work during certain periods of time may elect to engage in an alternate work schedule in order to meet those religious requirements. The regulation shall include provision for any employee who elects to work an alternate schedule to

be obligated to work an equal period of time to that taken off for such religious reasons.

33-12. Appeals of disciplinary actions; grievance procedures.

(b) Grievances. A grievance is a formal complaint arising out of a misunderstanding or disagreement between a Merit System employee and supervisor with reference to a term or condition of employment. The determination of the Board as to what constitutes a term or condition of employment shall be final. Grievances do not include the following: classification allocations, except due process violations; failure to reemploy a probationary employee; or other employment matters for which another forum is available to provide relief or the Board determines are not suitable matters for the grievance resolution process. A grievance shall include termination by resignation which is found by the Board to have been submitted under circumstances which cause the resignation to be involuntary; in the event of such a finding, the Board shall require the appointing authority to substantiate the termination as in the case of a removal. The County Executive shall prescribe, in the personnel regulations adopted under Method (1) of Section 2A-15 of this Code, procedures which seek to secure at the lowest possible level a fair, prompt and mutually satisfactory resolution to grievance. In providing these procedures, the County Executive shall ensure that any grievance based upon an alleged improper application of a Merit System law or regulation concerning a disputed issue of fact is entitled to resolution after a fact-finding inquiry authorized by the Board. Grievances based upon an alleged improper interpretation of Merit System laws or regulations do not require a hearing during the grievance resolution process.

33-13. Appeal procedures.

The County Executive shall prescribe by personnel regulations, adopted under Method (1) of Section 2A-15 of this Code, procedures covering appeals, including grievances which shall include the time limit for filing such appeal, the granting of administrative leave pending appeal, filing and cost of the administrative record, conduct of hearings, requirements for written notice, special evidentiary proceedings in cases where the remedy of employee reinstatement was a contested and unresolved issue in an ordinary appeal hearing and provisions for summary actions by the Board.

33-13A. Audits, investigations and inquiries.

(d) Designate, with the approval of the Council, an alternate special personnel investigator for matters in which he has a conflict of interest or is otherwise unable to pursue.

The special personnel investigator shall be appointed by the County Council for a term of five years, or until his successor is appointed and qualified, subject to removal at the pleasure of the Council and upon the vote of five members of the Council; shall have experience in law or personnel matters; shall be paid a per diem fee as set forth by contract with the County; and shall be reimbursed for necessary expenses.

When an audit, investigation or inquiry gives the Board cause to believe that the Merit System has not been administered in accordance with the provisions of this Chapter or regulations promulgated pursuant thereto, the Board may refer the matter to an appropriate investigative entity, including the special personnel investigator, at the Board's option. Where a complaint is filed by the special personnel investigator, or on its own motion, the Board may hold a hearing and issue a decision ordering such corrective action as it determines to be necessary, including those remedies provided in Section 33-14(c). Where the Board holds a hearing on its own motion, the Board's staff or the special personnel investigator shall be the charging party. In any hearing, the responding party shall include all individuals who may be adversely affected. All investigatory proceedings under this Section shall include due process protections consistent with the purposes of this Chapter and procedures shall be included in the personnel regulations adopted under Method (1) of Section 2A-15 of this Code, which specify these protections in further detail. Nothing herein shall be construed to prohibit the Board from initiating and acting upon audits, investigations or inquiries until such regulations are adopted.

33-18. Deduction for child support.

(g) Director's duties

The Director, upon receipt of the Clerk's determination shall, unless contrary to law, court rule, or the provisions of a collectively bargained agreement, deduct the specified amount from the paycheck of the payor and transfer same to the Clerk. The Clerk shall then forward the amount

of the payment directly to the payee. The Director may also deduct from the amount of the support payment, a fee, established by executive regulation by the County Executive adopted under Method (3) of Section 2A-15 of this Code, not to exceed the reasonable costs of implementing the determination of the Clerk.

(j) Executive regulations.

The County Executive is authorized to adopt regulations, under Method (1) of Section 2A-15 of this Code, for the implementation of the provisions of this Section.

33-19. Day care as alternative fringe benefit.

(b) The County Executive shall adopt executive regulations under Method (1) of Section 2A-15 of this Code for the implementation of this Section. These regulations shall assure that the County's dependent care assistance plan is in conformance with United States Internal Revenue Service requirements.

33-47. Administration by Chief Administrative Officer.

(b) Regulations for administration. The County Executive shall establish regulations, adopted under Method (1) of Section 2A-15 of this Code, for the administration of the retirement system, within the limitations of this Article. The Chief Administrative Officer may engage actuarial and other services and incur expenses as required to transact the business of the retirement system.

33-77. Permanent umpire.

(a) There is hereby created the position of Permanent Umpire, so as to provide for the effective implementation and administration of Sections 33-79 and 33-82 of this Article concerning selection, certification and decertification procedures and prohibited practices. The Permanent Umpire shall exercise the following powers and perform the following duties and functions:

(1) Adopt regulations under Method (1) of Section 2A-15 of this Code, for the implementation and administration of Sections 33-79 and 33-82 as are consistent with this Article;

* * *

Sec. 40. Sections 35-3(c), 35-13A and 35-14(e) of Chapter 35, title "Police", be and hereby are amended to read as follows:

35-3. Same - Powers and duties.

(c) Adoption of regulations, orders, etc., generally. The Director of Police shall adopt, under Method (2) of Section 2A-15 of this Code, all regulations for the County which pertain to the work of the Department of Police. The Director shall issue such additional instructions and adopt such orders, and administrative procedures, not inconsistent with law, as deemed proper in the exercise of the functions of chief executive officer of the Department of Police.

35-13A. Anti-Hate/Violence Fund.

(a) There is created within the Department of Police the Anti-Hate/Violence Fund, to be administered and applied pursuant to regulations adopted by the County Executive under Method (2) of Section 2A-15 of this Code, in exchange for information leading to the arrest or apprehension for commission within Montgomery County of any act described in Section 27-26A of the County Code or proscribed by Sections 10A or 111 of Article 27, Annotated Code of Maryland.

35-14. Generally

(e) The County Merit System Protection Board may adopt regulations within the limitations of this Article and the Employees' Retirement System Ordinance contained in Chapter 33 of this Code to govern the implementation of the provisions of the police relief and retirement fund. These regulations shall be adopted under Method (3) of Section 2A-15 of this Code and shall be made in appendant of the Personnel Regulations.

Sec. 41. Sections 38A-4 and 38A-11 of Chapter 38A, title "Radio, Television and Electrical Appliance Installation and Repair", be and hereby are amended to read as follows:

38A-4. Same - Issuance; bond.

The Director shall issue a certificate of registration to applicants qualified pursuant to Section 38A-3, upon payment of the registration fee established by executive regulation adopted by the County Executive under Method (3) Section 2A-15 of this Code, and upon delivery to the County of a cash bond or a corporate bond executed by a surety company qualified to

transact business in the State in the amount of two thousand dollars. The cash or corporate bond shall be conditioned upon the registrant's performing all work done for consumers in the County in accordance with this Code and laws of the County and State and shall provide that the County or any person damaged by failure of the registrant to comply with such Code and laws may proceed against such bond in any court of competent jurisdiction.

The Director shall immediately revoke the certificate of registration upon failure of any registrant to maintain such bond.

38A-11. Adoption of regulations.

The County Executive is hereby authorized to adopt, under Method (2) of Section 2A-15 of this Code, written regulations necessary for the implementation of the provisions of this Chapter, following public hearing on reasonable notice.

Sec. 42. Section 39-7 of Chapter 39, title "Rat Control", be and hereby is amended to read as follows:

39-7. Regulations.

The County Executive is hereby authorized to adopt, under Method (2), of Section 2A-15 of this Code, and enforce such regulations as he may from time to time find necessary to adopt to carry out the purposes of this Chapter to protect the public health, safety and welfare.

Sec. 43. Sections 41-4 and 41-23(a) of Chapter 41, title "Recreation and Recreation Facilities", be and hereby are amended to read as follows:

41-4. Adoption of rules and regulations.

In order to carry out the objectives of this Chapter, the County Executive is hereby authorized to adopt and amend, from time to time, regulations, under Method (2) of Section 2A-15 of this Code, for the government and use of all land, buildings and other recreational facilities acquired or constructed by or committed to the care or supervision of the County hereunder. Such regulations may include provisions limiting the use of any such recreational facility for reasons of health, safety, comfort or morals; for fees for the use of any such facility or service in connection therewith, provided, that such fees shall not exceed the cost of providing the same; for the issuance of permits by the Director of Recreation to individuals or groups of individuals for the use of any such facility, which permits may

grant exclusive use thereof or limit the permittee to a particular area or facility.

41-23. Same - Officers; committees; by-laws; meetings; quorum; compensation of members.

(a) The chairperson of the County Recreation Board shall be elected by the membership annually. The County Recreation Board is authorized to elect other officers, to establish committees of its members and to adopt by-laws and adopt regulations, under Method (2) of Section 2A-15 of this Code, for the conduct of its affairs as it deems desirable.

Sec. 44. Sections 41A-2(a), 41A-3(c) and (e), 41A-7(a), 41A-9(a) and 41A-12 of Chapter 41A, title "Rent Supplement and Assistance Programs", be and hereby are amended to read as follows:

41A-2. Eligibility for rent supplement.

(a) Rent supplement for tenants in the form of grants authorized under this Chapter may be allowed to any tenant who meets the following conditions:

* * *

(4) The combined gross income shall not exceed an income limit specified by executive regulation, adopted by the County Executive under Method (1) of Section 2A-15 of this Code; however, incomes in excess of the income limit shall be entitled to a partial rent supplement as specified in paragraph 41A-3(c).

41A-3. Rent supplement amount, calculation, method of payment, regulations.

(c) The amount of the rent supplement shall be three percentum (3%) of the difference between a calculation base specified by executive regulation, adopted under Method (1) of Section 2A-15 of this Code, and the combined gross income. When the combined gross income exceeds the income limit, the rent supplement amount calculated under the above formula shall be reduced by 25% of the excess of such income above the income limit.

(e) The County Executive may adopt regulations, under Method (1) of Section 2A-15 of this Code, necessary to administer this Chapter.

41A-7. Rental assistance program for handicapped persons needing supporting services.

(a) Purpose. The purpose of this Article is to provide rental assistance to handicapped persons needing supporting services, such persons

being unable to live independently of such services, and whose income meets requirements established by the County Executive by regulations adopted under Method (1) of Section 2A-15 of this Code.

41A-9. Eligibility for rental assistance.

Eligibility for rental assistance under this Article shall extend to those handicapped persons who:

(a) Meet the income requirements of regulations adopted by the County Executive under Method (1) of Section 2A-15 of this Code; and

41A-12. Amount of rental assistance.

The amount of rental assistance hereunder shall be calculated on a monthly basis by adjusting the recipient's monthly gross income by subtracting any medical expenses allowed under the executive regulations and multiplying the difference by 25% and then subtracting the product from the recipient's actual monthly rent. In no event can the combined total of the monthly rental assistance payment and the recipient's monthly share of the rent exceed \$200.00 per individual per month. The monetary figure mentioned above shall be reviewed annually and modified, if necessary, by regulation adopted by the County Executive under Method (1) of Section 2A-15 of this Code.

Sec. 45. Sections 44-3(a)(5) and 44-22 of Chapter 44, title "Schools and Camps", be and hereby are amended to read as follows:

44-3. Interagency Coordinating Board.

(a) There is hereby established the Interagency Coordinating Board for Community Educational Services, the principal responsibility of which shall be to review and coordinate the activities conducted under this Article. This responsibility shall include:

(5) Adopt regulations, under Method (2) of Section 2A-15 of this Code, as may be necessary to implement the requirements of this Act; and

44-22. License fees.

Annual fees for licenses issued under this Division shall be of such an amount as the County Executive, by regulation adopted under Method (3) of Section 2A-15 of this Code, may set from time to time. The fees shall not exceed the cost of inspection and issuing the permits for the various establishments regulated by this Chapter. The permit fee so fixed shall be submitted with the application and is not refundable in whole or in part

unless the application is withdrawn prior to an inspection of the premises by the Director of the Department or his/her authorized agent. If the application is withdrawn prior to the inspection, the entire permit fee shall be refunded.

Sec. 45A. Sections 44A-3(b), 44A-4(c), 44A-5, 44A-8(b) and (c), 44A-9, 44A-11(b) and 44A-16 of Chapter 44A, title "Secondhand Personal Property" of the Montgomery County Code 1972, as amended, be and hereby are amended to read as follows:

44A-3. Required books and records.

(b) A dealer shall cause a written record, in the English language, to be made of each transaction involving a purchase, acquisition or receipt by or on behalf of the dealer of secondhand personal property at the time of the transaction. Each transaction shall be recorded in a format specified by executive regulation, adopted under Method (3) of Section 2A-15 of this Code, and shall contain the following information:

* * *

44A-4. Retention of secondhand personal property.

(c) The requirements of subsections (a) and (b) shall not be applicable to any secondhand personal property which has been inspected and received written clearance for earlier disposition by the Director or his designee in accordance with regulations adopted by the County Executive under Method (3) of Section 2A-15 of this Code.

44A-5. Exemption for certain dealers.

The County Executive may, by regulation adopted under Method (3) of Section 2A-15 of this Code, modify or eliminate the licensing, holding, recordkeeping or reporting requirements of this Chapter as they pertain to dealers who derive less than 10% of their gross personal property sales from the sale of secondhand personal property.

44A-8. Application for license; license fee.

(b) The annual license fee for each license shall be established by the County Executive, by written regulation adopted under Method (3) of Section 2A-15 of this Code, in an amount not to exceed the estimated costs of administering and enforcing this Chapter.

(c) Each application for a dealer's license shall contain a statement that the applicant authorizes the Montgomery County Department of Police or other police departments having jurisdiction to inspect the books, records, inventory and premises of the business during normal business hours, and a statement that the dealer agrees to pay for the purchase of any secondhand personal property by check and not to cash any such check, except as permitted by executive regulation adopted under Method (3) of Section 2A-15 of this Code.

44A-9. Payments by check.

A dealer must pay for the purchase of all secondhand personal property by check, except as permitted by executive regulation adopted under Method (3) of Section 2A-15 of this Code.

44A-11. Expiration and renewal of license; prohibition on transfer.

(b) A license issued under this Chapter may be renewed on application and payment of a fee established by the County Executive by regulation adopted under Method (3) of Section 2A-15 of this Code, which shall not exceed the estimated costs of administration and enforcement.

44A-16. Regulations; restitution.

The County Executive shall adopt under Method (2) of Section 2A-15 of this Code, reasonable and necessary regulations for the implementation and administration of this Chapter. These regulations may include provisions providing for the County to, and the County may, obtain restitution on behalf of an injured party.

Sec. 46. Sections 47-13 and 47-22 of Chapter 47, title "Solicitors, Hawkers and Peddlers", be and hereby are amended to read as follows:

47-13. License - Fee; issuance; contents.

A fee to cover the cost of investigating the applicant for a license and processing of the application under this Article shall be paid to the County when the application is filed, and shall not be returnable under any circumstances. The County Executive may from time to time, by executive regulation adopted under Method (3) of Section 2A-15 of this Code, change such fee to an amount not to exceed the reasonable costs of licensing and enforcement under this Article. Unless, after investigation, the Director finds that the applicant has not complied with this Article or is not of good moral character, he/she shall issue a license upon the posting of the bond as

provided in the preceding Section which shall show the name and address of the solicitor and the date of issuance and expiration of the license, and one of the photographs submitted by the solicitor shall be attached to the license.

No license shall be issued to any holder of a license issued under this Article within one year of a revocation. In determining good moral character, the reputation of the applicant, his criminal record, if any, and license history in this or other jurisdictions shall be considered. Emphasis in reaching a decision on moral character shall be given to any convictions for crimes of violence, sex offenses, violations of the gaming, narcotic, alcoholic beverage laws and fraud. No person shall be denied a license solely on the grounds of previous convictions or penal servitude, if, in fact, his record, conduct and habits for a period of three years after conviction or release from penal servitude, whichever is later, indicate that he is a proper person to be licensed under the standards of this Article.

47-22. Same - Fee; license year.

For each license required by the preceding Section, each person shall pay a fee which shall be established and may be revised from time to time by the County Executive by written regulations adopted under Method (3) of Section 2A-15 of this Code in an amount not to exceed the reasonable costs of administration and enforcement of this Article. The fee schedule shall provide for a license fee for different periods of time up to one year.

Sec. 47. Sections 48-6, 48-26, 48-29(d) and 48-32(a) of Chapter 48, title "Solid Wastes", be and hereby are amended to read as follows:

48-6. Regulations for collection or disposal.

Collection or disposal of solid waste shall be in accordance with such regulations, which may include the imposition of reasonable fees to cover the cost of inspection and licensing, as the County Executive shall, from time to time, adopt under Method (2) of Section 2A-15 of this Code; provided, that no incorporated town or special taxing area shall be required to pay any fees for inspection and licensing.

48-26. Same - Fees.

Permit or license fees under this Chapter shall be fixed annually by executive regulation adopted by the County Executive under Method (3) of Section 2A-15 of this Code. The fees shall not exceed the cost of inspection,

licensing and enforcement of this Chapter.

48-29. Solid waste collection districts.

(d) The County Executive shall fix charges annually, for solid waste collection and disposal services, so as to coincide in time with the fixing of the annual real property tax rates; such charges shall correspond as closely as practicable to the actual cost to the County to perform such services; provided, that if such collection or disposal charges, together with manner of collection, are prescribed by law, the charges and manner of collection established by such law shall prevail. The County Executive is authorized to adopt under Method (3) of Section 2A-15 of this Code, all necessary regulations for the implementation and enforcement of this Chapter, which regulations shall have the force and effect of law.

48-32. Imposition; amount; exemptions.

(a) A base solid waste disposal charge is herein established at a fixed rate per ton, to be determined by resolution of the County Council, for any and all types of disposable refuse delivered by any person or agency, public or private, to the County solid waste acceptance facilities. The County Executive is authorized, by written regulation adopted under Method (2) of Section 2A-15 of this Code, to provide for a charge different from the base solid waste charge for any particular type of disposable refuse which has a cost of disposal different from the base solid waste charge or for which any other jurisdiction in the metropolitan Washington, D.C., area is charging more than the base charge of the County. The Council may, by resolution, after considering any recommendations from the County Executive, change such base rate, following notice and a public hearing on such a change; the effective date of any change in the base solid waste disposal charge shall provide adequate time to allow public and private agencies and organizations to make necessary billing adjustments.

Sec. 48. Sections 49-1, 49-4, 49-7, 49-23(a), 49-27, 49-33, 49-33A(c), 49-36, 49-38(b), (c) and (g), 49-40(e), 49-68A and 49-75 of Chapter 49, title "Streets and Roads", be and hereby are amended to read as follows:

49-1. Regulations and ordinances - Authority to adopt, etc.

The County Council is hereby authorized to adopt, and from time to time change and amend, any and all necessary and reasonable regulations and

ordinances governing the proper use, care, construction, reconstruction, improvement, grading, repairing and maintenance of the County roads, lanes, streets, alleys, avenues, bridges or other highways, including those dedicated for public use, but excepting those located within incorporated towns and incorporated special taxing areas of the County. The County Executive is also authorized to adopt, and from time to time, amend and change any and all necessary and reasonable regulations governing the foregoing matters which are not inconsistent with or superseded by any regulation, ordinance or law adopted or enacted by the County Council. The Council is hereby authorized to provide reasonable penalties for the violation of all such regulations and make other necessary provisions for the enforcement thereof. All such regulations when adopted under Method (2) of Section 2A-15 of this Code shall have the force and effect of law.

49-4. Authority of citizens' committees of special taxing areas to regulate construction, maintenance, etc., of streets and roads.

The citizens' committee of any special taxing area, which committee has the authority and duty to pave and maintain streets, roads or other highways in its area, is hereby authorized to adopt, and from time to time, change and amend reasonable regulations and orders under Method (2) of Section 2A-15 of this Code with reference to the proper construction, maintenance, improvement, grading and repairing of the roads, lanes, streets, alleys, avenues, bridges or other highways in taxing areas, including those dedicated for public use. Thereafter no public road, lanes, street, alley, avenue, bridge or other highway within such special taxing area, including those dedicated for public use, shall be constructed, repaired, graded, improved or maintained by any person, association or corporation unless such construction, repairing, improvement, grading or maintenance comply in all particulars with such regulations and orders. In adopting such regulations and orders, the aforesaid citizens' committee may, by resolution, adopt all or part of the regulations and orders promulgated by the County Council of Montgomery County for the construction, maintenance, improvement, grading and repairing of the County roads, lanes, streets, alleys, avenues, bridges or other highways. Any person, association or corporation violating any provisions of this Section or any regulation or order of any citizens' committee passed pursuant hereto

shall be subject to punishment for a Class B violation as set forth in Section 1-19 of Chapter 1 of this Code. Each day's violation shall constitute a separate offense.

49-7. Permit required for grading, etc., projects; fee.

Before any street, sidewalk, gutter, curb, grading project or drainage project may be begun on a County road or street or within the boundaries of a dedication to the public use, the applicant for a permit to undertake any such project shall pay to the County, as an inspection and engineering fee, such fee as may be provided by written regulation of the County Executive, adopted under Method (3) of Section 2A-15 of this Code, for the construction of any such street, sidewalk, gutter, curb, grading project or drainage project.

Any person who violates any provision of this Section shall, upon conviction, be fined not more than one thousand dollars or imprisoned for not more than one year, or both, for each offense.

49-23. Licensing and regulating hoisting.

(a) Whenever, in the judgment of the County Executive, it is necessary for the safety and control of vehicular or pedestrian traffic, he is hereby authorized to issue written safety regulations, adopted under Method (3) of Section 2A-15 of this Code, restricting or limiting the movement or use of any material, platform hoist, bucket hoist, crane, derrick, material hoist tower or any other device designed to hoist anything whatsoever on or over any public street, right-of-way or public place.

49-27. Conversion of existing overhead public utility lines to underground locations.

Whenever it shall be necessary as the result of the construction or improvement of any County road to relocate any overhead electric, telephone, telegraph or other overhead lines of any kind, or related facilities, within any such County road right-of-way, the County Executive shall, by written regulation adopted under Method (3) of Section 2A-15 of this Code, require that any such lines be installed underground if he determines that such underground installation is required by one or more of the following conditions:

* * *

49-33. Standards and specifications.

Except as otherwise provided, the construction of all roads shall conform to the minimum requirements, standards and specifications provided in this Article. Whenever used in this Article the word "standards" means Montgomery County Design Standards, and the word "specifications" means Montgomery County Standard Specifications. The Montgomery County Design Standards and Montgomery County Standard Specifications are hereby adopted and made a part of this Article. The "standards" and "specifications" adopted hereby may be amended by the County Executive by regulation adopted under Method (2) of Section 2A-15 of this Code. The Secretary of the County Council shall keep among the official records the standards and specifications, as adopted by the County Council, together with any amendments thereto. The Secretary shall also prepare and make available to the public printed copies of this Article and of such standards and specifications, and they shall be given such free distribution or sold for such price as the County Executive may determine from time to time.

49-33A. Pedestrian walkways, bikeways and wheelchair traffic.

(c) In order to promote the safety of bicycle and wheelchair travel throughout the County, the County Executive shall establish, by written regulation adopted under Method (3) of Section 2A-15 of this Code, standards and specifications for the construction and maintenance of ramps at curbed intersections and for the construction and maintenance of storm water gratings and other openings along roads and streets of such a design and type as not to constitute a hazard to bicycle and wheelchair traffic. Such nonhazardous ramps, gratings and openings shall be constructed and maintained in connection with all projects implemented pursuant to subsections (a) and (b) of this Section.

49-36. Classification by County Executive.

No person shall construct any road and the County shall not authorize any road to be constructed or issue any permit therefor, until such proposed road shall have been classified by the County Executive as prescribed in this Section. All classifications of roads shall be by written regulation, adopted by the County Executive under Method (2) of Section 2A-15 of this Code, which shall include a statement of facts and conclusions in support thereof.

Classifications of any road may be changed from time to time in like manner.

An alphabetical name file of all roads within the County to which this Article applies, indicating their classification and status as either "maintained", "accepted for maintenance" or "not maintained" shall be kept by the County. A similar file listing all roads according to election district and road number shall also be kept.

49-38. Permits for grading and construction - Required; application; fee.

(b) Before any road, sidewalk, curb and gutter or drainage project, except a project which is entirely a grading project, may be begun on a road or within the boundaries of a dedication to the public use, the applicant for a permit to undertake any such project shall pay to the County a fee which shall be established by the County Executive by written regulation adopted under Method (3) of Section 2A-15 of this Code.

(c) Where any such project is entirely a grading project, the applicant shall pay a fee to the County as an inspection and engineering fee when the office of the Director does the engineering work on such project and a separate fee when the applicant for the permit furnishes the engineering work. The fees for grading projects shall be established and may be revised from time to time by the County Executive by written regulation adopted under Method (3) of Section 2A-15 of this Code.

(g) No person shall construct sidewalks, driveway entrances, retaining walls, steps, cut curbs or construct or place any temporary or permanent structure within a public right-of-way without first obtaining a permit therefor from the Director of Transportation, and without paying a fee which shall be established and may be revised from time to time by the County Executive by written regulation adopted under Method (3) of Section 2A-15 of this Code.

49-40. Street and road bonds.

(e) The County Executive is authorized to adopt regulations, under Method (3) of Section 2A-15 of this Code, to implement the provisions of this section. The Director shall recommend permit fees to include amounts as may be necessary to cover any increased costs of administration of any of the programs set forth in this Section.

49-68A. Application filing fee.

Except for applications by the County and other governmental agencies, no application under this Article shall be received for filing unless it is accompanied by the payment of a filing fee in the amount of one hundred and twenty-five dollars or such other amount established by regulations of the County Executive, adopted under Method (3) of Section 2A of this Code, to defray the cost of hearing and other expenses of such application.

49-75. Adoption of regulations.

The County Executive is authorized to adopt, under Method (2) of Section 2A-15 of this Code, necessary regulations concerning freeways or expressways; such may include, but not be limited to, further provisions for the establishment, construction, use and access to freeways or expressways.

Sec. 49. Sections 51-11 and 51-12(a) of Chapter 51, title "Swimming Pools" be and hereby are amended to read as follows:

51-11. Fees.

The fee for obtaining any license, permit or registration as provided in this Chapter shall be such amount as the County Executive, by regulation adopted under Method (3) of Section 2A-15 of this Code, may set from time to time. No separate pool operating permit shall be required for a wading or spray pool. A separate fee, in such amount as the Executive may set by regulation adopted under Method (2) of Section 2A-15 of this Code, from time to time, will be charged for administration of the examination to applicants for a pool operator's license as provided in this Chapter. Fees shall not exceed the reasonable costs of administering and enforcing this Chapter. There shall be no operating permit fee charged for any pool operated by the County.

51-12. Regulations.

(a) The County Executive is authorized and designated to prescribe and issue written regulations, adopted under Method (2) of Section 2A-15 of this Code, for the implementation and operation of public swimming pools and public swimming pool construction as may be necessary from time to time to implement the provisions of this Chapter.

(b) Each person selling, constructing or installing a swimming pool in Montgomery County shall provide the purchaser or owner with a current copy of this Chapter.

Sec. 50. Sections 52-7(k), 52-8, 52-16B(k), 52-18A(c), 52-18B(k), 52-18C(m), 52-18D(d), 52-21(d), 52-21(h)(4) and 52-21(i)(4) and (7) of Chapter 52, title "Taxation", be and hereby are amended to read as follows:
52-7. Same - Purchase by County taxpayers; denominations; increase in value; form; redemption; nontransferable; limitation on amount issued; lost or stolen certificates.

(k) The County Executive is authorized to establish regulations, adopted under Method (3) of Section 2A-15 of this Code, for the replacement of lost or stolen certificates upon proof of loss satisfactory to the Director.
52-8. Certification of payment of taxes; fees; liability for errors, etc.

For certifying the payment or nonpayment of ordinary taxes, to persons other than the Council or the head of any department of the County government, the Director of Finance shall charge and collect a fee for each such certification as shall be established by the County Executive by written regulations adopted under Method (3) of Section 2A-15 of this Code and in an amount not to exceed the cost of administering and providing for liability under this Section.

In addition, the Director of Finance shall charge and collect a fee which shall be established by the County Executive by written regulation adopted under Method (3) of Section 2A-15 of this Code for each certification of payment or nonpayment of any farmland transfer tax due under Section 52-21.

All such certifications shall certify the taxes that are paid or unpaid according to the records of the County but neither the Director of Finance nor any official authorized by him to make such certification shall be personally liable for any error in such certificate unless the error be caused by his willful, capricious or fraudulent act. In the event of the failure to list on such certificate unpaid taxes for the period covered by such certificate, or the failure to list properly payment or nonpayment of the farmland transfer tax due under section 52-21, the liability of the County on such certificate shall be limited to the amount of such unpaid taxes, interest and penalties.

52-16B. Beverage container tax.

(k) Additional provisions. The County Executive may adopt regulations, adopted under Method (2) of Section 2A-15 of this Code, necessary to implement and clarify the provisions of this tax.

52-18A. Tax credit for certain nonprofit organizations.

(c) The County Executive is delegated authority to prepare such regulations, adopted under Method (2) of Section 2A-15 of this Code, as the County Executive determines may be needed for the administration of tax credits to the extent such administrative rules and regulations are not inconsistent with Section 9C, Article 81, Annotated Code of Maryland.

52-18B. Moderate income multi-family rental housing facility real property tax deferral.

(k) The County Executive is authorized to adopt regulations, under Method (2) of Section 2A-15 of this Code, for the administration of this deferral program.

52-18C. Residential real property tax deferral.

(m) The County Executive is authorized to adopt regulations, under Method (2) of Section 2A-15 of this Code, for the administration of this deferral program.

52-18D. Tax credit for Great Hope Homes Limited.

(d) The County Executive is delegated authority to prepare such regulations, to be adopted under Method (3) of Section 2A-15 of this Code, as the Executive determines may be needed for the administration of tax credit to the extent such administrative regulations are not inconsistent with Section 9C, Article 81, Annotated Code of Maryland.

52-21. Levied; amount.

(d) A percentage of the value of the consideration for the transfer of land, excluding improvements thereon, which, while owned by the transferor, has been assessed at any time during the five years preceding transfer on the basis of being actively devoted to farm or agricultural use or which while owned by the transferor has been valued and assessed on the assessment records on the basis of the agricultural use value assessment at any time during the five years preceding transfer, said tax to be paid by the transferor of such land, which percentage shall vary according to the following schedule:

(1) Land assessed and taxed to the transferor for one year on the basis of farm or agricultural use, two and one-half percent.

(2) Land assessed and taxed to the transferor for two years on the basis of farm or agricultural use, four percent.

(3) Land assessed and taxed to the transferor for three years on the basis of farm or agricultural use, five and one-half percent.

(4) Land assessed and taxed to the transferor for more than three years on the basis of farm or agricultural use, six percent.

Improvements and land which were not assessed based on farm or agricultural use and are not subject to the farmland transfer tax levied in subsections (d)(1), (2), (3), or (4) and are transferred as a part of a transaction including a transfer of land previously assessed as farmland, shall be taxed as provided in other subsections of this Section 52-21 as if such improvements and land were not part of a transaction including farmland. Consideration for the improvements and non-farm-assessed land shall be presumed to be the total full cash value most recently determined by the Supervisor of Assessments based on the most recent notice of assessment. The presumption may be rebutted by clear and convincing evidence.

Where the transfer is subject both to the tax imposed by this subsection (d) and the tax imposed by subsection (e) below, the tax imposed by subsection (e) shall be the only tax imposed on the transfer.

The County Executive may from time to time issue written regulations adopted under Method (3) of Section 2A-15 of this Code, pertaining to the collection of the tax levied in this subsection.

(h) Four percent of the value of the consideration for the initial transfer of a residential unit subject to a condominium regime, which unit was offered for rent for residential purposes prior to the establishment of the condominium regime.

* * *

(4) The County Executive may adopt regulations, under Method (2) of Section 2A-15 of this Code, for the implementation of the purposes set forth above. Expenditures from the fund shall be authorized by appropriation by the County Council.

* * *

(1) Four percent of the value of the consideration for the initial transfer of stock or other evidence of membership in a cooperative or similar entity where such stock corresponds to a residential unit which is being converted from rental status to a system of cooperative housing corporation ownership under which title to a multi-unit residential facility is held by a corporation, the shareholders or members of which, by virtue of such ownership or membership, are entitled to enter into an occupancy agreement for a particular residential unit.

* * *

(4) The County Executive may adopt regulations, under Method (2) of Section 2A-15 of this Code, for the implementation of the purposes set forth above. Expenditures from the fund shall be authorized by appropriation by the County Council.

* * *

(7) For purposes of subsection (i), a transfer or issuance of stock or other evidence of membership from the cooperative housing corporation to the developer shall not be deemed to be the initial transfer. The County Executive may from time to time issue written regulations, adopted under Method (2) of Section 2A-15 of this Code, to define any terms or to effectuate the purposes of this subsection (i).

* * *

Sec. 51. Sections 53-18, 53-19(c) and (e), 53-37A, 53-42 and 53-46(c)(5) of Chapter 53, title "Taxicabs and Limousines" be and hereby are amended to read as follows:

53-18. Vehicle equipment - Taximeters.

Each taxicab for which a passenger vehicle license has been issued under this Chapter shall be equipped, while in service, with an accurate, properly installed and connected taximeter which has a security seal affixed by the Office of Consumer Affairs. Periodic tests of such meters will be made. Upon successful completion of the tests, the taximeter shall be affixed with a security seal. These tests should be scheduled by the County in such a manner as to minimize the interruption of taxicab service to the public. Except as otherwise specified, the requirements for approval and methods of testing and operation of taximeters shall conform to specifications,

tolerances and regulations for taximeters as set out in the National Bureau of Standards Handbook 44, or as may be established by executive regulation adopted under Method (3) of Section 2A-15 of this Code. It shall be unlawful and cause for revocation or suspension of identification card or passenger vehicle license for any person:

(a) To make any change in the mechanical condition of wheels, tires and gears of any taxicab with intent to cause false registration by the meter of the fare to be charged any passenger.

(b) To make any charge for transportation other than computed by the taximeter with a security seal, provided, however, that the Director of the Department of Transportation, or his or her authorized designee, may grant a waiver to this provision for a contract filed therewith that permits lower rates than those computed by the taximeter upon a written determination that the contract provision will not result in a significant reduction of service to the general public as provided under Section 53-31.

53-19. Schedule of fare rates.

(c) Adjustments of rates. The County Executive may adjust such rates, by executive regulations adopted under Method (3) of Section 2A-15 of this Code, as he or she deems necessary in the public interest after public notice and hearing and after giving consideration to the recommendations of the Taxicab Service Advisory Committee.

(e) The County Executive is authorized to adopt regulations, under Method (2) of Section 2A-15 of this Code, to include but not be limited to a taxicab reporting system in order to carry out the intent of this Article.

53-37A. Regulations.

The County Executive is hereby authorized to establish in writing regulations, adopted under Method (2) of Section 2A-15 of this Code, necessary and proper to carry out the purposes and intent of this Chapter.

53-42. Insurance required of applicants.

Before issuing any passenger vehicle license under this Article, the Department of Transportation shall ascertain as to each vehicle licensed that the owner has insurance or surety for the vehicle covering bodily injury or death to any passenger or other person, and property damage in the amounts required by regulations adopted by the County Executive under Method (3) of

Section 2A-15 of this Code, and further that such insurance surety covers the full period for which the vehicle is to be insured.

If at any time, for any reason, the insurance or surety coverage lapses during the license year, the license shall be immediately suspended without notice or hearing, and the Director or his agent shall proceed immediately to obtain possession of the license and shall not reissue it until the insurance or surety requirements are fully met.

53-46. Issuance; maximum number; waiting list; rights of heirs of deceased licensee.

(c) Authorized, unissued passenger vehicle licenses shall be issued in accordance with the following procedure and determinations:

(5) Applications for a passenger vehicle license shall be processed in accordance with the following procedures:

a. Application shall be made in writing to the Department of Transportation in accordance with Section 53-40 of this Chapter.

b. Upon receipt of any such application, the Department of Transportation shall give due notice thereof to the public by posting a notice of such application in the office of the Department and by causing copies of such notice to be transmitted to such other persons as the Department may by regulation determine. Any interested person may file with the Department a protest or memorandum of opposition to or in support of the grant of any such application. The County Executive shall, by regulation adopted under Method (3) of Section 2A-15 of this Code, determine the duration of such posting and any limitations of time applicable to the giving of notice and the filing of protests or memoranda and such periods of time shall be sufficient in duration to most nearly assure actual notice and opportunity to be heard to all interested persons.

c. The Department may act without a public hearing to recommend disposition of any application as to which neither a protest nor a memorandum in the opposition has been duly furnished to the Department within the prescribed time. The Department shall set all other applications for public hearing, at which oral and written evidence, testimony and argument shall be received from the applicant and other interested persons. The County Executive shall, by written regulation adopted under Method (3) of Section

2A-15 of this Code, establish procedures which will assure that interested persons receive actual notice and an opportunity to participate in such hearing.

* * *

Sec. 52. Sections 53A-3, 53A-8(c) and 53A-10 of Chapter 53A, title "Tenant Displacement", be and hereby are amended to read as follows:

53A-3. Right of first refusal to purchase rental facilities.

(a) Sale of rental facilities.

Prior to the sale or transfer of a rental facility of more than ten rental units to any person for the purpose of conversion, the owner shall provide a right of first refusal to purchase the rental facility to the County, its designated housing agency and tenants' organizations certified by the Office of Consumer Affairs pursuant to executive regulations adopted under Method (3) of Section 2A-15 of this Code.

* * *

(b) Notice required; exercise of right of first refusal.

* * *

(4) The County Executive may require the owner, by executive regulations adopted under Method (3) of Section 2A-15 of this Code, to make available to the County, its designated housing agency and certified tenants organization information regarding the characteristics and condition of the facility deemed relevant to the exercise of the right of first refusal, including but not limited to architectural and engineering plans and specifications and facility operating data. In addition, the County Executive, by regulation adopted under Method (3) of Section 2A-15 of this Code, may require the owner to provide access to the facility for purposes of inspection by the County, its designated housing agency, and certified tenants organization, provided, the County, its designated housing agency, and certified tenants organization, and their agents shall be responsible for any damage to the property caused by such inspection. The County Executive may provide, by regulation adopted under Method (3) of Section 2A-15 of this Code, that any information received by either the County or its designated housing agency, pursuant to this subsection, is confidential and not subject to public disclosure.

* * *

53A-8. Notice to tenants of status conversion; right of tenant to terminate lease; liability for relocation costs.

(c) Any tenant who, within one hundred eighty (180) days after receipt of a notice of intention to convert the status or use of the rental facility, under this Chapter, gives written notice of intent to move to the owner, shall be entitled to reimbursement by the owner for the reasonable costs of relocation assistance as determined by executive regulation, adopted under Method (3) of Section 2A-15 of this Code, up to \$750.00, provided that complaints regarding the application of this subsection may be filed with the Office of Landlord-Tenant Affairs.

53A-10. Administration of Chapter.

The Office of Consumer Affairs shall be responsible for administration of this Chapter and the County Executive shall, from time to time, issue such written regulations, adopted under Method (2) of Section 2A-15 of this Code, as may be necessary to put into effect and to administer the provisions of this Chapter.

Sec. 53. Sections 54-2, 54-15, 54-19 and 54-23 of Chapter 54, title "Transient Lodging Facilities", be and hereby are amended to read as follows:

54-2. Authority of County Executive to regulate and license.

The County Executive, in order to implement the health standards and regulations of this Chapter, is hereby authorized by law to adopt such regulations, under Method (3) Section 2A-15 of this Code, concerning the operation, maintenance and conduct of any of the types of establishments referred to in this Chapter, including provision of such licenses and license fees for such establishments as he may deem appropriate. Neither the provisions of this Chapter nor the provisions of any law adopted hereunder shall be applicable within the corporate limits of any incorporated municipality or special taxing area within the County which by law has authority to enact similar regulations.

54-15. Application.

Before an annual license for any establishment shall be issued by the Director under this Division, an application shall be filed by the owner or operator, or his duly authorized agent, in accordance with the regulations prescribed by the County Executive under Method (3) of Section 2A-15 of this Code.

54-19. Fees.

The annual fees for licenses under this Division shall be established by the County Executive by written regulation adopted under Method (3) of Section 2A-15 of this Code.

54-23. Change of location of establishment; transfer.

(a) Whenever an establishment changes its location, the current license held by such owner or operator under this Division shall automatically become void.

(b) The Director may, in his discretion, authorize the transfer of a license issued under this Division to a new owner or operator upon an application for transfer of the license and payment of a transfer fee which shall be established by the County Executive by written regulation adopted under Method (3) of Section 2A-15 of this Code.

Sec. 54. Sections 56-1, 56-2A, 56-6, 56-30(h) and 56-34 of Chapter 56, title "Urban Renewal and Community Development", be and hereby are amended to read as follows:

56-1. Rehabilitation loan fund.

The County Council is hereby empowered and authorized by resolution to establish and thereafter to maintain a special fund to be known as the "rehabilitation loan fund" for the purpose of making loans to homeowners of low income to finance rehabilitation required to make their homes or mobile homes conform to applicable County Code requirements, provided such loans are not available on reasonable terms and conditions from other sources. The County Executive shall prescribe from time to time such regulations, adopted under Method (2) of Section 2A-15 of this Code, deemed appropriate for the making of such loans and the administration of the fund, including the right to contract with private organizations for the administration of such fund.

56-2A. Authority to establish.

The County Council is hereby empowered and authorized by resolution to establish and thereafter to maintain a special fund to be known as the "homeowners' replacement loan fund" for the purpose of making direct loans to homeowners of low income, whose present homes cannot be rehabilitated to conform with applicable County Code requirements, to finance new homes, including prefabricated and mobile homes and to finance the purchase of land

upon which a home is situated; provided, that such loans are not available on reasonable terms and conditions from other sources. The County Executive shall adopt under Method (2) of Section 2A-15 of this Code, from time to time such regulations as he or she shall deem appropriate for the making of such loans and the administration of the fund, including the right to contract with private organizations for the administration of such fund; provided, that the loans available under this fund shall be limited to those individuals whose income and net worth preclude home financing through normal banking or other financial channels. In determining the availability to the property owner of adequate commercial financing, the following shall be taken into consideration:

* * *

56-6. Administration.

The homeowners replacement loan fund shall be administered by the Director of Housing and Community Development, pursuant to regulations to be adopted by the County Executive, under Method (2) of Section 2A-15 of this Code.

56-30. Powers and authority of County.

(h) Eligibility standards. Adopt and revise standards, by executive regulations adopted under Method (2) of Section 2A-15 of this Code, for eligibility for renting or purchasing opportunity housing, and establish and revise the rents, sales prices or charges therefor; such rents, sales prices or charges to be based upon a set of maximum income or other financial limits to be established and revised by the County Executive for eligibility and admission to such opportunity housing. In establishing and revising such income limits, the County Executive shall consider all available statistical data indicating the minimum rentals and sales prices of dwelling units or housing available or being produced in the private market, including sales price data from the County's Department of Finance; the vacancy ratio in rental units; the currently prevailing prices at which private enterprise can and will produce sales and rental units; and any other statistical data which at the discretion of the County Executive is deemed appropriate and relevant to the general market and economic conditions that currently exist.

56-34. Financial assistance.

(a) The County Council is hereby empowered and authorized by resolution to establish and thereafter to maintain a special fund to be known as the "tenant displacement aid fund" for the purpose of making grants and loans to persons of eligible income, as follows:

(1) Down payment assistance loans

a. Down payment assistance loans may be made from the tenant displacement fund to persons who are eligible for the following reasons: a household member is 62 years of age or older at the time of the application or is physically or mentally handicapped as defined by executive regulation adopted by the County Executive under Method (2) of Section 2A-15 of this Code, and has an income within the moderately priced dwelling unit ordinance income limits and is being displaced or threatened by displacement as a result of a rental facility changing in status or use, including, but not limited to, the establishment of a condominium regime, the establishment of a cooperative housing project, the establishment of a commercial use of a facility, or partial or complete demolition.

* * *

(2) Rental assistance grant

a. Grants from the tenant displacement aid fund may be made for rent differential assistance, as defined by executive regulations adopted by the County Executive under Method (2) of Section 2A-15 of this Code, to persons who are eligible for the following reasons: a household member is 62 years of age or older at the time of the application or is physically or mentally handicapped as defined by executive regulation, and has an income within the moderately priced dwelling unit ordinance income limits, and is being displaced or threatened by displacement as a result of a rental facility changing in status or use, including, but not limited to, the establishment of a condominium regime, the establishment of a cooperative housing project, the establishment of a commercial use of a facility, or partial or complete demolition.

* * *

(b) Grant payments to the Housing Opportunities Commission may be made for the purchase of rental units converting to condominium or other status. The County Executive shall prescribe from time to time, such terms,

conditions, regulations, adopted under Method (2) of Section 2A-15 of this Code, as he shall deem appropriate for the making of grants and the administration of the fund.

(c) The County Executive shall prescribe from time to time regulations adopted under Method (2) of Section 2A-15 of this Code, as he shall deem appropriate for the making of all grants and loans and the administration of the fund.

* * *

Sec. 54A. Sections 56A-5(a), 56A-8 and 56A-9(b) of Chapter 56A, title "Video Games", be and hereby are amended to read as follows:

56A-5. License fees.

(a) The fee for a license issued under this Chapter is:

- (1) Paid to the Director;
- (2) In the amount that the County Executive by regulation, adopted under Method (3) of Section 2A-15 of this Code, sets;
- (3) Not refundable.

56A-8. Registration Fee

The fee for a certificate or registration issued under this Chapter is:

- (1) Paid to the Director;
- (2) In the amount that the County Executive by regulation, adopted under Method (3) of Section 2A-15 of this Code, sets; and
- (3) Not refundable.

56A-9. Administration.

(b) The County Executive may issue any necessary regulation, adopted under Method (2) of Section 2A-15 of this Code, to implement this Chapter.

Sec. 55. Severability.

The provisions of this Act are severable and if any provision, clause, sentence, section, word or part thereof is held illegal, invalid or unconstitutional, or inapplicable to any person or circumstances, such illegality, invalidity or unconstitutionality, or inapplicability shall not affect or impair any of the remaining provisions, sentences, clauses, sections, words or parts of the Act or their application to other persons or circumstances. It is hereby declared to be the legislative intent that this Act would have been adopted if such illegal, invalid, or unconstitutional

provision, sentence, clause, section, word or part had not been included therein, and if the person or circumstances to which the Act or any part thereof is inapplicable had been specifically exempted therefrom.

Sec. 56. Effective Date.

This Act shall take effect on the 91st day following the date on which it becomes law.

Approved:

Erwin R. Gelman 12-15-83
President, Montgomery County Council Date

Approved:

/s/ Charles W. Gilchrist 12/15/83
County Executive Date

ATTEST:

/s/ Kathleen A. Freedman 12/16/83
Acting Secretary of the County Council Date